



Substitute House Bill No. 6322

Public Act No. 13-134

AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL AND MINOR CHANGES TO THE INSURANCE AND RELATED STATUTES.

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

Section 1. Section 38a-8 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) The commissioner shall see that all laws respecting insurance companies and health care centers are faithfully executed and shall administer and enforce the provisions of this title. The commissioner [has] shall have all powers specifically granted, and all further powers that are reasonable and necessary to enable the commissioner to protect the public interest in accordance with the duties imposed by this title. The commissioner shall pay to the Treasurer all the fees [which he] that the commissioner receives. The commissioner may administer oaths in the discharge of [his] the commissioner's duties.

(b) The commissioner shall recommend to the General Assembly changes [which] that, in [his] the commissioner's opinion, should be made in the laws relating to insurance.

(c) In addition to the specific regulations [which] that the commissioner is required to adopt, the commissioner may adopt such

Substitute House Bill No. 6322

further regulations, in accordance with the provisions of chapter 54, as are reasonable and necessary to implement the provisions of this title. [Regulations shall be adopted in accordance with the provisions of chapter 54.]

(d) The commissioner shall develop a program of periodic review to ensure compliance by the Insurance Department with the minimum standards established by the National Association of Insurance Commissioners for effective financial surveillance and regulation of insurance companies operating in this state. The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, pertaining to the financial surveillance and solvency regulation of insurance companies and health care centers as are reasonable and necessary to obtain or maintain the accreditation of the Insurance Department by the National Association of Insurance Commissioners. The commissioner shall maintain [,] as confidential [,] any confidential documents or information received from the National Association of Insurance Commissioners, or the International Association of Insurance Supervisors, or any documents or information received from state or federal insurance, banking or securities regulators or similar regulators in a foreign country [which] that are confidential in such jurisdictions. The commissioner may share any information, including confidential information, with the National Association of Insurance Commissioners, the International Association of Insurance Supervisors, or state or federal insurance, banking or securities regulators or similar regulators in a foreign country, [so long as] provided the commissioner determines that such entities agree to maintain the same level of confidentiality in their [jurisdiction] jurisdictions as is available in this state. [The] At the expense of a domestic, alien or foreign insurer, the commissioner may engage the services of [, at the expense of a domestic, alien or foreign insurer,] attorneys, actuaries, accountants and other experts not otherwise part of the commissioner's staff as may be necessary to assist the

Substitute House Bill No. 6322

commissioner in the financial analysis of the insurer, the review of the insurer's license applications, and the review of transactions within a holding company system involving an insurer domiciled in this state. No duties of a person employed by the Insurance Department on November 1, 2002, shall be performed by such attorney, actuary, accountant or expert.

(e) The Insurance Commissioner shall establish a program to reduce costs and increase efficiency through the use of electronic methods to transmit documents, including policy form and rate filings, to and from insurers and the Insurance Department. The commissioner may sit as a member of the board of a consortium organized by or in association with the National Association of Insurance Commissioners for the purpose of coordinating a system for electronic rate and form filing among state insurance departments and insurers.

(f) The commissioner shall maintain [] as confidential [] information obtained, collected or prepared in connection with examinations, inspections or investigations, and complaints from the public received by the Insurance Department, if such records are protected from disclosure under federal law or state statute or, in the opinion of the commissioner, such records would disclose, or would reasonably lead to the disclosure of: (1) Investigative information the disclosure of which would be prejudicial to such investigation, until such time as the investigation is concluded; or (2) personal, financial or medical information concerning a person who has filed a complaint or inquiry with the Insurance Department, without the written consent of the person or persons to whom the information pertains.

[(g) Not later than January 1, 2006, the Insurance Commissioner shall develop a plan to maintain a viable medical malpractice insurance industry in this state for physicians and surgeons, hospitals, advanced practice registered nurses and physician assistants. Such plan shall be submitted to the Governor upon its completion.]

Substitute House Bill No. 6322

Sec. 2. Subsection (b) of section 38a-9 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

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

(2) The commissioner shall prepare a list of at least ten persons, who have not been employed by the department or an insurance company during the preceding twelve months, to serve as arbitrators in the settlement of such disputes. The arbitrators shall be members of any dispute resolution organization approved by the commissioner. One arbitrator shall be appointed to hear and decide each complaint. Appointment shall be based solely on the order of the list. If an arbitrator is unable to serve on a given day, or if either party objects to

Substitute House Bill No. 6322

the arbitrator, then the next arbitrator on the list shall be selected. The department shall schedule arbitration hearings as often, and in such locations, as it deems necessary. Parties to the dispute shall be provided written notice of the hearing at least ten days prior to the hearing date. The commissioner may issue subpoenas on behalf of the arbitrator to compel the attendance of witnesses and the production of documents, papers and records relevant to the dispute. Decisions shall be made on the basis of the evidence presented at the arbitration hearing. Where the arbitrator believes that technical expertise is necessary to decide a case, such arbitrator may consult with an independent expert recommended by the commissioner. The arbitrator and any independent technical expert shall be paid by the department on a per dispute basis as established by the commissioner. The arbitrator, as expeditiously as possible but not later than fifteen days after the arbitration hearing, shall render a written decision based on the information gathered and disclose the findings and the reasons to the parties involved. The arbitrator shall award filing fees to the prevailing party. If the decision favors the [consumer] claimant, the decision shall provide specific and appropriate remedies including interest at the rate of fifteen per cent per year on the arbitration award concerning the disputed amount of the claim, retroactive to the date of payment for the undisputed amount of the claim. The decision may include costs for loss of use and storage of the motor vehicle and shall specify a date for performance and completion of all awarded remedies. Notwithstanding any provision of the general statutes or any regulation, the Insurance Department shall not amend, reverse, rescind, or revoke any decision or action of any arbitrator. The department shall contact the [consumer] claimant not later than ten business days after the date for performance, to determine whether performance has occurred. Either party may make application to the superior court for the judicial district in which one of the parties resides or, when the court is not in session, any judge thereof for an order confirming, vacating, modifying or correcting any award, in

Substitute House Bill No. 6322

accordance with the provisions of sections 52-417, 52-418, 52-419 and 52-420. If it is determined by the court that either party's position after review has been improved by at least ten per cent over that party's position after arbitration, the court may grant to that party its costs and reasonable attorney's fees. No evidence, testimony, findings, or decision from the department arbitration procedure shall be admissible in any civil proceeding, except judicial review of the arbitrator's decision as contemplated by this subsection.

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

Sec. 3. Section 38a-14 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) The commissioner shall, as often as [he] the commissioner deems it expedient, examine into the affairs of any insurance company or health care center doing business in this state, any corporation or association collecting data utilized by any such insurance company in the underwriting of insurance policies and any corporation organized under any law of this state or having an office in this state, which corporation is engaged in, or claiming or advertising that it is engaged in, organizing or receiving subscriptions for or disposing of stock of, or in any manner aiding or taking part in the formation or business of, an insurance company or companies, or [which] that is holding the capital stock of one or more insurance corporations for the purpose of controlling the management thereof, as voting trustees or otherwise.

(b) In scheduling and determining the nature, scope and frequency

Substitute House Bill No. 6322

of the examinations, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants and such other criteria as set forth in the examiners' handbook adopted by the National Association of Insurance Commissioners and in effect at the time the commissioner exercises discretion under this section.

(c) (1) To carry out examinations under this section, the commissioner may appoint [, as examiners,] one or more competent persons [, not] as examiners, who shall not be officers of, [or] connected with or interested in any insurance company, other than as [a policyholder] policyholders. The commissioner may engage the services of attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals and specialists as examiners to assist [him] the commissioner in conducting the examinations under this section, [as examiners,] the cost of which shall be borne by the company [which] that is the subject of the examination.

(2) In conducting the examination, the commissioner, [his] the commissioner's actuary or any examiner authorized by the commissioner may examine, under oath, the officers and agents of such a company, health care center, corporation or association and all persons deemed to have material information regarding the company's, health care center's, corporation's or association's property or business. Each such company, health care center, corporation or association, or its officers and agents, shall produce the books and papers [,] in its or their possession, relating to its business or affairs, and any other person may be required to produce any book or paper [,] in [his] such person's custody [,] that is deemed to be relevant to such examination, for [the] inspection [of] by the commissioner, [his] the commissioner's actuary or examiners. [, when required.] The

Substitute House Bill No. 6322

officers and agents of the company, health care center, corporation or association shall facilitate the examination and aid the examiners in making the same so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension of, [or] refusal of or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the commissioner's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to subsection (c) of section 38a-41.

(3) In conducting the examination, the examiner shall observe those guidelines and procedures set forth in the examiners' handbook adopted by the National Association of Insurance Commissioners. The commissioner may also adopt such other guidelines or procedures as the commissioner may deem appropriate.

(d) In lieu of an examination under this section of any foreign or alien insurer licensed in this state, the commissioner may accept [until January 1, 1994,] an examination report on [the company] such insurer prepared by the insurance department for the company's state of domicile or port-of-entry state [. Thereafter, such reports may only be accepted] if (1) such state's insurance department was, at the time of the examination, accredited under the National Association of Insurance Commissioners' financial regulation standards and accreditation program, or (2) the examination is performed under the supervision of an accredited insurance department or with the participation of one or more examiners who are employed by such an accredited state insurance department and who, after a review of the examination workpapers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by their insurance department.

Substitute House Bill No. 6322

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

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

(3) Not later than sixty days following completion of the examination, the examiner in charge shall file, under oath, with the Insurance Department a verified written report of examination. Upon receipt of the verified report, the Insurance Department shall transmit the report to the [company] entity examined, together with a notice [which] that shall afford the [company] entity examined a reasonable opportunity, not to exceed thirty days, to make a written submission or rebuttal with respect to any matters contained in the examination report. Not later than thirty days after the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiner's workpapers and enter an order: (A) Adopting the examination report as filed or with modification or corrections. If the examination report reveals that the [company] entity is operating in violation of any law, regulation or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure such violation; (B) rejecting the examination report with directions to the examiners to reopen the

Substitute House Bill No. 6322

examination for purposes of obtaining additional data, documentation or information, and refileing pursuant to [subparagraph (A) of] this subdivision; or (C) calling for an investigatory hearing with not less than twenty days' notice to the company for purposes of obtaining additional documentation, data, information and testimony.

(f) (1) All orders entered pursuant to subdivision (3) of subsection (e) of this section shall be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner workpapers and any written submissions or rebuttals. The findings and conclusions [, which] that form the basis of any such order of the commissioner [,] shall be subject to review as provided in section 38a-19.

(2) Any investigatory hearing conducted under subparagraph (C) of subdivision (3) of subsection (e) of this section by the commissioner or the commissioner's authorized representative, shall be conducted as a nonadversarial confidential investigatory proceeding as necessary for the resolution of any inconsistencies, discrepancies or disputed issues apparent (A) upon the filed examination report, (B) raised by or as a result of the commissioner's review of relevant workpapers, or (C) by the written submission or rebuttal of the company. Not later than twenty days after the [conclusions] conclusion of any such hearing, the commissioner shall enter an order pursuant to subparagraph (A) of subdivision (3) of subsection (e) of this section. The commissioner shall not appoint an examiner as an authorized representative to conduct the hearing. The hearing shall proceed expeditiously with discovery by the [company] entity limited to the examiner's workpapers that tend to substantiate any assertions set forth in any written submission or rebuttal. The commissioner or [his] the commissioner's authorized representative may issue subpoenas for the attendance of any witnesses or the production of any documents deemed relevant to the investigation, whether under the control of the department, the

Substitute House Bill No. 6322

[company] entity or other persons. The documents produced shall be included in the record and testimony taken by the commissioner or [his] the commissioner's authorized representative shall be under oath and preserved for the record. Nothing contained in this section shall require the department to disclose any information or records that would indicate or show the existence or content of any investigation or activity of a criminal justice agency. The hearing shall proceed with the commissioner or [his] the commissioner's authorized representative posing questions to the persons subpoenaed. Thereafter, the [company] entity and the Insurance Department may present testimony relevant to the investigation. Cross-examination shall be conducted only by the commissioner or [his] the commissioner's authorized representative. The [company] entity and the Insurance Department shall be permitted to make closing statements and may be represented by counsel of their choice.

(g) The commissioner may, if [he] the commissioner deems it in the public interest, publish any such report, or the result of any such examination contained therein, in one or more newspapers of the state.

(h) The commissioner shall, at least once in every five years, visit and examine the affairs of each domestic insurance company, health care center, domestic fraternal benefit society, and foreign and alien insurance company doing business in this state. Notwithstanding subdivision (1) of subsection (c) of this section, no domestic insurance company or other domestic entity subject to examination under this section shall pay as costs associated with the examination the salaries, fringe benefits, traveling and maintenance expenses of examining personnel of the Insurance Department engaged in such examination if such domestic company or entity is otherwise liable to assessment levied under section 38a-47, except that a domestic insurance company or other domestic entity shall pay the traveling and maintenance expenses of examining personnel of the Insurance Department when

Substitute House Bill No. 6322

such company or entity is examined outside the state.

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

(j) All [~~working papers~~] workpapers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the commissioner or any other person in the course of an examination made under this section shall be given confidential treatment, shall not be subject to subpoena and shall not be made public by the commissioner or any other person, except to the extent provided in subsection (i) of this section. [~~Access~~] The commissioner may grant access to such [~~information may be granted by the commissioner~~] workpapers, recorded information, documents and copies thereof to the National Association of Insurance Commissioners, [so long as it] provided said association agrees, in writing, to hold [it] such workpapers, recorded information, documents and copies thereof confidential.

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

Substitute House Bill No. 6322

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

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

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

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

Sec. 4. Section 38a-53 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) (1) Each domestic insurance company or health care center shall, annually, on or before the first day of March, submit to the commissioner, and electronically to the National Association of Insurance Commissioners, a true and complete report, signed and

Substitute House Bill No. 6322

sworn to by its president or a vice president, and secretary or an assistant secretary, of its financial condition on the thirty-first day of December next preceding, prepared in accordance with the National Association of Insurance Commissioners annual statement instructions handbook and following those accounting procedures and practices prescribed by the National Association of Insurance Commissioners accounting practices and procedures manual, subject to any deviations in form and detail as may be prescribed by the commissioner. An electronically filed report in accordance with section 38a-53a that is timely submitted to the National Association of Insurance Commissioners [does] shall not exempt a domestic insurance company or health care center from timely filing a true and complete paper copy with the commissioner.

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

(b) Each foreign insurance company doing business in this state shall, annually, on or before the first day of March, submit to the commissioner, by electronically filing with the National Association of Insurance Commissioners, a true and complete report, signed and sworn to by its president or a vice president, and secretary or an assistant secretary, of its financial condition on the thirty-first day of December next preceding, prepared in accordance with the National Association of Insurance Commissioners annual statement instructions handbook and following those accounting procedures and practices prescribed by the National Association of Insurance Commissioners accounting practices and procedures manual, subject to any deviations in form and detail as may be prescribed by the commissioner. An electronically filed report in accordance with section 38a-53a that is timely submitted to the National Association of Commissioners [is]

Substitute House Bill No. 6322

shall be deemed to have been submitted to the commissioner in accordance with this section.

(c) In addition to such annual report, the commissioner, when [he] the commissioner deems it necessary, may require any insurance company or health care center doing business in this state to file financial statements on a quarterly basis. An electronically filed true and complete report filed in accordance with section 38a-53a that is timely filed with the National Association of Insurance Commissioners shall be deemed to have been submitted to the commissioner in accordance with the provisions of this section.

(d) In addition to such annual report and the quarterly report required under subsection (c) of this section, the commissioner, whenever the commissioner determines that more frequent reports are required because of certain factors or trends affecting companies writing a particular class or classes of business or because of changes in the company's management or financial or operating condition, may require any insurance company or health care center doing business in this state to file financial statements on other than an annual or quarterly basis.

(e) Any insurance company or health care center doing business in this state [which] that fails to file any report or statement required under this section shall pay a late filing fee of one hundred seventy-five dollars per day for each day from the due date of such report or statement to the date of filing.

(f) Each insurance company or health care center doing business in this state shall include in all reports required to be filed with the commissioner under this section a certification by an actuary or reserve specialist of all reserve liabilities prepared in accordance with regulations [which] that shall be adopted by the commissioner in accordance with chapter 54. The regulations shall: (1) Specify the

Substitute House Bill No. 6322

contents and scope of the certification; (2) provide for the availability to the commissioner of the workpapers of the actuary or loss reserve specialist; and (3) provide for granting companies or centers exemptions from compliance with the requirements of this subsection. The commissioner shall maintain, as confidential, all workpapers of the actuary or loss reserve specialist and the actuarial report and actuarial opinion summary provided in support of the certification. Such workpapers, reports and summaries shall not be subject to subpoena or disclosure under the Freedom of Information Act, as defined in section 1-200.

Sec. 5. Subparagraph (M) of subdivision (1) of subsection (b) of section 38a-130 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(M) An acknowledgment by the person filing such statement that such person and all subsidiaries in the insurance holding company system within such person's control will provide such information as the commissioner may request to evaluate enterprise risk to the insurance company; and

Sec. 6. Subdivision (2) of subsection (a) of section 38a-132 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(2) (A) The effect of the merger or other acquisition of control would be to substantially lessen competition of insurance in this state or tend to create a monopoly herein. The commissioner shall consider the information required under subdivision (1) of subsection (c) of section 38a-131 and the considerations specified in subdivision (1) of subsection (d) of section 38a-131 in evaluating the effect of the merger or other acquisition of control on competition in this state.

(B) The commissioner shall not disapprove the merger or other

Substitute House Bill No. 6322

acquisition of control on the basis of [this] subparagraph (A) of this subdivision if the commissioner finds that a situation as described in subdivision (2) of subsection (e) of section 38a-131 exists.

(C) The commissioner may condition the approval of the merger or other acquisition of control on the correction or removal, within a specified period of time, of the basis of the commissioner's disapproval under [this] subparagraph (A) of this subdivision;

Sec. 7. Section 38a-162 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) No person shall engage in the business of financing insurance premiums, secured by any insurance premium finance agreement, in this state without having first obtained from the commissioner a license to act as an insurance premium finance company. Any person who engages in the business of financing insurance premiums, secured by any insurance premium finance agreement, in this state without first obtaining a license as herein provided shall, upon conviction be guilty of a class A misdemeanor.

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

(c) Any person applying for an insurance premium finance license or for the renewal of any such license, shall file with the commissioner sworn answers to such interrogatories as [he] the commissioner may require and any person who intentionally makes any false answer to any such interrogatory shall be guilty of perjury.

Substitute House Bill No. 6322

(d) The commissioner may at any time require any applicant for a license under sections 38a-160 to 38a-170, inclusive, [fully] to disclose fully the identity of all stockholders, partners, officers and employees of [his] the applicant's firm, partnership or corporation. [, and he] The commissioner may refuse to issue or renew any license under said sections in the name of any firm, partnership or corporation if [he] the commissioner is satisfied that any officer, employee, stockholder or partner thereof, may materially influence the applicant's conduct [so that he] such that the applicant does not meet the standards or qualifications required of a licensee under said sections.

Sec. 8. Section 38a-163 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

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

(b) Upon the filing of an application and payment of the license fee, the commissioner shall [make an investigation of] investigate the applicant and shall issue an insurance premium finance company license if the applicant is qualified in accordance with the provisions of sections 38a-160 to 38a-170, inclusive. If the commissioner does not find the applicant so qualified, [he] the commissioner shall, [within] not later than thirty days [of] after receipt of the license application and fee, grant the applicant a full hearing, provided such applicant shall have requested such hearing within said period. Any hearing conducted under said sections may be held by the commissioner or any person duly appointed by [him, provided any] the commissioner. Any person acting as a hearing officer on behalf of the commissioner shall submit [his] such person's findings and recommendations to the

Substitute House Bill No. 6322

commissioner for [his] the commissioner's decision in the matter.

(c) The commissioner may issue or renew any license under this [chapter] part when [he] the commissioner is satisfied that the applicant (1) is competent and trustworthy and intends to act in good faith in the capacity of a licensee under the provisions of sections 38a-160 to 38a-170, inclusive, [;] (2) has a good business reputation and has had such experience, training or education so as to qualify [him] the applicant for a license under the provisions of said sections, and (3) if the applicant is a corporation, that it is either incorporated under the laws of this state or, if a foreign corporation, it is authorized to transact business in this state.

Sec. 9. Section 38a-251 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

A risk retention group seeking to be chartered in this state [must] shall be chartered and licensed as a liability insurance company authorized by the insurance laws of this state and, except as provided in sections 38a-250 to 38a-266, inclusive, shall comply with all of the laws, rules, regulations and requirements applicable to such insurers chartered and licensed in this state, and with section 38a-252 to the extent such requirements are not a limitation on laws, rules, regulations or requirements of this state. Before it may offer insurance in any state, each risk retention group shall also submit for approval to the Insurance Commissioner of this state a plan of operation or a feasibility study and revisions of such plan or study if the group intends to offer any additional lines of liability insurance.

Sec. 10. Section 38a-285 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Two or more insurance companies authorized to transact, in this state, a marine and transportation insurance business may issue

Substitute House Bill No. 6322

combination forms of policies covering such business, using distinctive titles therefor, which titles shall appear at the head of the respective policies, followed by the titles of the several companies obligated thereunder, which policies shall be executed by the officers of each of such companies; provided, before such companies issue any such combination policy, they shall have received the express permission of the commissioner of this state to issue the same, and the titles of such proposed policies, and the terms of the additional provisions thereof, hereby authorized, shall have been approved by him, which terms shall provide substantially, under a separate title therein, to be known as "Provisions specially applicable to this combination policy", as follows: [(a)] (1) That each company executing such policy shall be liable for the full amount of any loss or damage according to the terms of the policy, or for a specific percentage thereof; [(b)] (2) that service of process, or of any notices required by such policy, upon any of the companies executing the same shall be deemed to be service upon all; and provided the unearned premium liability on each policy so issued shall be maintained by each of such companies on the basis of the liability of each of the insured thereunder.

Sec. 11. Section 38a-288 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

The commissioner shall [make] adopt regulations, in accordance with the provisions of chapter 54, governing insurance on personal property sold under installment or deferred payment contracts or on personal property pledged as security for a loan and governing any other insurance sold in connection with such installment or deferred payment contracts or loans. Such regulations may prescribe [(a)] (1) the form of notice and policy to be furnished the purchaser or borrower and the prominence with which any exceptions, restrictions or limitations shall appear in such notice or policy, [(b)] (2) the records to be maintained by insurance companies, [(c)] (3) the manner in which

Substitute House Bill No. 6322

single-interest and dual-interest insurance coverage may be used when written at the expense of the purchaser or borrower, [(d)] (4) the right of the purchaser or borrower to notice of any change in his insurance coverage and to dividends and unearned premiums thereon, and [(e)] (5) the manner in which premiums on such policies and losses or claims thereunder shall be paid or adjusted.

Sec. 12. Subsection (e) of section 38a-363 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

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

Sec. 13. Subsection (a) of section 38a-364 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) For the purposes of sections 14-12b and 14-12c, subsection (a) of section 14-13, sections 14-213b and 14-217 and this section, "private passenger motor vehicle" [shall have] has the same meaning as in subsection (e) of section 38a-363, as amended by this act.

Sec. 14. Section 38a-416 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) No title insurer or title insurance agent may accept any order for,

Substitute House Bill No. 6322

issue a title insurance policy to, or provide services to, an applicant if it knows or has reason to believe that the applicant was referred to it by any producer of title insurance business or by any associate of such producer, where the producer, the associate or both, have a financial interest in the title insurer or title agent to which business is referred unless the producer has disclosed to the buyer, seller, lender, the financial interest of the producer of title insurance business or associate referring the title insurance business. The disclosure must be made in writing on forms prescribed by the commissioner. The title insurer shall maintain the disclosure forms for a period of three years.

(b) Each title insurer and title agent shall file with the commissioner on forms prescribed by the commissioner a report setting forth the names and addresses of those persons, if any, who have had a financial interest in the title insurer or title agent during the calendar year, who are known or reasonably believed by the title insurer to be producers of title business or associates of producers. Each title insurer licensed on October 1, 1990, shall file the report required under this subsection within ninety days after October 1, 1990. Each title insurer shall file the report required under this subsection with its application for a license and at any time there is a change in the information provided in the last report.

(c) No title insurer or title agent may accept an order for title insurance business, issue a title insurance policy or receive or retain any premium, or charge in connection with any transaction if (1) the title insurer or title agent knows or has reason to believe that the transaction will constitute controlled business for that title insurer, and (2) twenty per cent or more of the gross operating revenue of that title insurer in the calendar year in which the transaction takes place is derived from controlled business.

[(d) For purposes of subsection (c) of this section, the percentage limitation set forth in subdivision (2) of subsection (c) shall be eighty

Substitute House Bill No. 6322

per cent in the first calendar year after October 1, 1990, sixty per cent in the second calendar year after October 1, 1990, forty per cent in the third calendar year after October 1, 1990, and twenty per cent in any later calendar year.]

[(e)] (d) No license may be issued, renewed or continued for a title insurer or title agent who fails to comply with this section.

Sec. 15. Section 38a-430 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) No life insurance or annuity policy or contract shall be delivered or issued for delivery to any person in this state, nor shall any application, rider or endorsement be used in connection therewith, until a copy of the form thereof shall have been filed with and approved by the commissioner. The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, establishing a procedure for review of such policies and contracts. The commissioner shall issue an order disapproving the use of any such form at any time if it does not comply with the requirements of law, or if it contains a provision or provisions that are unfair or deceptive or that encourage misrepresentation of the policy. The commissioner shall specify the reason for the commissioner's disapproval. The provisions of section 38a-19 shall apply to any such order issued by the commissioner.

(b) Nothing in this chapter shall preclude the issuance of a life insurance policy or contract including, but not limited to, a long-term care policy as provided in section 38a-458, that includes an optional health insurance rider, provided the optional health insurance rider is filed with and approved by the Insurance Commissioner pursuant to section 38a-481. Any company offering such policies for sale in this state shall be licensed to sell health insurance in this state pursuant to the provisions of section 38a-41.

Substitute House Bill No. 6322

Sec. 16. Section 38a-435 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

The Insurance Commissioner may make regulations governing the sale or offer of sale of life insurance products, including annuities, when such sale or offer involves the replacement of existing policies or contracts or the borrowing on or lapsing of such existing policies or contracts. Such regulations may prescribe [(a)] (1) the form in which such offer or proposal should be made; [(b)] (2) the form of notice to the insurance companies involved; [(c)] (3) the questions to be contained in application forms for life insurance products pertaining to existing insurance; and [(d)] (4) the form of notice to the purchaser. The commissioner may suspend or revoke the license of any insurance producer violating any such regulation.

Sec. 17. Subsection (g) of section 38a-465e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(g) Except as otherwise provided in this section, all examination reports, working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the commissioner or any other person in the course of an examination made under this section, or in the course of analysis or investigation by the commissioner of the financial condition or market conduct of a licensee, shall be confidential by law and privileged and shall not be subject to section 1-210, subject to subpoena, or subject to discovery or be admissible in evidence in any [private] civil action. The commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as part of the commissioner's official duties. The licensee being examined shall have access to all documents used to make the report.

Substitute House Bill No. 6322

Sec. 18. Subsection (b) of section 38a-501 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) No insurance company, fraternal benefit society, hospital service corporation, medical service corporation or health care center may deliver or issue for delivery any long-term care policy that has a loss ratio of less than sixty per cent for any individual long-term care policy. An issuer shall not use or change premium rates for a long-term care [insurance] policy unless the rates have been filed with and approved by the Insurance Commissioner. Any rate filings or rate revisions shall demonstrate that anticipated claims in relation to premiums when combined with actual experience to date can be expected to comply with the loss ratio requirement of this section. A rate filing shall include the factors and methodology used to estimate irrevocable trust values if the policy includes an option for the elimination period specified in subdivision (1) of subsection (a) of this section.

Sec. 19. Subsection (e) of section 38a-501 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(e) The Insurance Commissioner shall adopt regulations, in accordance with chapter 54, that address (1) the insured's right to information prior to [his] the insured replacing an accident and sickness policy with a long-term care policy, (2) the insured's right to return a long-term care policy to the insurer, within a specified period of time after delivery, for cancellation, and (3) the insured's right to accept by the insured's signature, and prior to it becoming effective, any rider or endorsement added to a long-term care policy after the issuance date of such policy. The Insurance Commissioner shall adopt such additional regulations as the commissioner deems necessary in accordance with chapter 54 to carry out the purpose of this section.

Substitute House Bill No. 6322

Sec. 20. Subsection (b) of section 38a-528 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) No insurance company, fraternal benefit society, hospital service corporation, medical service corporation or health care center may deliver or issue for delivery any long-term care policy or certificate which has a loss ratio of less than sixty-five per cent for any group long-term care policy. An issuer shall not use or change premium rates for a long-term care [insurance] policy or certificate unless the rates have been filed with the Insurance Commissioner. Deviations in rates to reflect policyholder experience shall be permitted, provided each policy form shall meet the loss ratio requirement of this section. Any rate filings or rate revisions shall demonstrate that anticipated claims in relation to premiums when combined with actual experience to date can be expected to comply with the loss ratio requirement of this section. On an annual basis, an insurer shall submit to the Insurance Commissioner an actuarial certification of the insurer's continuing compliance with the loss ratio requirement of this section. Any rate or rate revision may be disapproved if the commissioner determines that the loss ratio requirement will not be met over the lifetime of the policy form using reasonable assumptions.

Sec. 21. Section 38a-538 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Each employer shall allow individuals to elect to continue coverage under a group plan pursuant to section [38a-554] 38a-512a.

Sec. 22. Subdivision (1) of subsection (a) of section 38a-591c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) (1) Each health carrier shall contract with (A) health care

Substitute House Bill No. 6322

professionals to administer such health carrier's utilization review program and oversee utilization review determinations, and (B) [with] clinical peers to evaluate the clinical appropriateness of an adverse determination.

Sec. 23. Subsection (a) of section 38a-591f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Each health carrier shall establish and maintain written procedures for (1) [for] the review of grievances of adverse determinations that were not based on medical necessity, and (2) notifying covered persons or covered persons' authorized representatives of such adverse determinations.

Sec. 24. Subsection (c) of section 38a-696 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

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

Sec. 25. Subsections (c) and (d) of section 38a-720c of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(c) The commissioner shall have access for the purposes of examination, audit and inspection to books and records maintained by

Substitute House Bill No. 6322

a third-party administrator. Any documents, materials or other information in the possession or control of the commissioner that are obtained by the commissioner from a third-party administrator, insurer, insurance producer or employee or agent thereof acting on behalf of such third-party administrator, insurer or insurance producer, in an investigation, examination or audit shall (1) be confidential by law and privileged; (2) not be subject to disclosure under section 1-210; (3) not be subject to subpoena; and (4) not be subject to discovery or admissible in evidence in any [private] civil action. The commissioner may use such documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.

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

Sec. 26. Subdivision (7) of section 38a-1084 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(7) Publish the average costs of licensing, regulatory fees and any other payments required by the exchange and the administrative costs of the exchange, including information on [monies] moneys lost to waste, fraud and abuse, on an Internet web site to educate individuals on such costs;

Sec. 27. Section 31-331 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Except as herein otherwise provided, such associations shall be subject to the same regulation and control as is or may be imposed by

Substitute House Bill No. 6322

law upon other corporations or associations taking similar risks in this state, and over them the Insurance Commissioner shall have all the jurisdiction given him by sections 38a-14 and 38a-17, as amended by this act, over insurance companies, provided with respect to any such association organized prior to June 6, 1996, with a membership composed exclusively of health care providers and whose premium base is derived entirely from health care organizations, the commissioner may accept a statement of financial condition that shall be audited by an independent certified public accountant using generally accepted accounting principles if such statement also includes a conversion to the accounting standards prescribed by section 38a-70. Such statement of financial condition shall be submitted to the commissioner by such association, annually, on or before the first day of March, signed and sworn to by its president or vice president and secretary or an assistant secretary, of its financial condition on the thirty-first day of December next preceding, prepared in such form and detail as may be prescribed by the commissioner and shall include a certification by an actuary or reserve specialist of all reserve liabilities prepared in accordance with subsection [(e)] (f) of section 38a-53, as amended by this act. In addition to such annual statement of financial condition, any such association shall file, quarterly, unaudited financial statements using generally accepted accounting principles if such statements also include a conversion to the accounting standards prescribed by section 38a-70.

Approved June 18, 2013