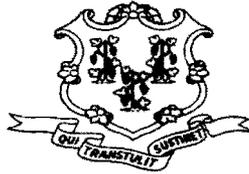


Section 8: Notice of Rejection Without Prejudice and LCO Recommendations

The Connecticut General Assembly

Legislative Regulation Review Committee

Senator Andrew Roraback
Co-Chair



Representative Paul Davis
Co-Chair

October 24, 2012

Subject: Proposed Regulation 2012-041

Thomas B Leonardi, Commissioner
Department of Insurance
P.O. Box 816
Hartford, CT 06106-0816

Dear Commissioner Leonardi:

Proposed Regulation

2012-041 **Department of Insurance** "REQUIREMENTS FOR REPLACEMENT OF LIFE INSURANCE & ANNUITIES" The Regulations of Connecticut State Agencies is amended by adding Sections 38a-435-1 through 38a-435-8, inclusive.

The above captioned regulation was **Rejected Without Prejudice** by the Legislative Regulation Review Committee on 10/23/2012. The action was based on the recommendations of the Legislative Commissioners' Office. The necessary corrections are listed on the attached pages.

The regulation should be corrected and then resubmitted to the Legislative Regulation Review Committee with a summary of the changes listed by paragraph. If this is a mandated regulation then the regulation must be resubmitted to this office no later than the 1st Tuesday of the second month following the regulation's rejection.

Sincerely,

Handwritten signature of Pamela B. Booth in cursive.

Pamela B. Booth, Administrator
Legislative Regulation Review Committee

Enclosures (2)

CERTIFICATION

R-39 REV. 1/77

Be it known that the foregoing:

Page 16 of 16 pages

Regulations Emergency Regulations

Are:

Adopted Amended as hereinabove stated Repealed

By the aforesaid agency pursuant to:

x Section 38a-435 of the General Statutes.

Section _____ of the General Statutes, as amended by Public Act No. _____ of the _____ Public Acts.

Public Act No. _____ of the Public Acts.

After publication in the Connecticut Law Journal on June 14, 2011 of the notice of the proposal to:

Adopt Amend Repeal such regulations

(If applicable): And the holding of an advertised public hearing on _____ day of _____ 20 _____

WHEREFORE, the foregoing regulations are hereby:

Adopted Amended as hereinabove stated Repealed

Effective:

90 days after the Regulation is adopted.

When filed with the Secretary of the State.

(OR)

The _____ day of _____

In Witness Whereof:	DATE <u>6/14/12</u>	SIGNED (Head of Board, Agency or Commission) <i>[Signature]</i>	OFFICIAL TITLE, DULY AUTHORIZED INSURANCE COMMISSIONER
---------------------	------------------------	--	---

Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, C. G. S.:	SIGNED <i>Joseph Rubin</i>	DATE <u>6/26/12</u>	OFFICIAL TITLE, DULY AUTHORIZED ASST. ATTY. GENERAL
---	-------------------------------	------------------------	--

- Approved
- Disapproved
- Disapproved in part, (Indicate Section Numbers disapproved only)
- Rejected without prejudice.

By the Legislative Regulation Review Committee in accordance With Sec. 4-170, as amended, of the General Statutes.	DATE	SIGNED (Clerk of the Legislative Regulation Review Committee)
--	------	---

Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-172, as amended, of the General Statutes.

DATE	SIGNED (Secretary of the State.)	BY
------	----------------------------------	----

INSTRUCTION

1. One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the General Statutes.
2. Seventeen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes.
3. Each regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-172 of the General Statutes.
4. Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in capitol letters and deleted language in brackets. Section 4-170 of the General Statutes.

CERTIFICATION

R-39 REV. 1/77

Be it known that the foregoing:

Page 16 of 16 pages

Regulations Emergency Regulations

Are:

Adopted Amended as hereinabove stated Repealed

By the aforesaid agency pursuant to:

x Section 38a-435 of the General Statutes.

Section _____ of the General Statutes, as amended by Public Act No. _____ of the _____ Public Acts.

Public Act No. _____ of the Public Acts.

After publication in the Connecticut Law Journal on, June 14, 2011 of the notice of the proposal to:

Adopt Amend Repeal such regulations

(If applicable): And the holding of an advertised public hearing on _____ day of _____ 20 ____

WHEREFORE, the foregoing regulations are hereby:

Adopted Amended as hereinabove stated Repealed

Effective:

X 90 days after the Regulation is adopted.

When filed with the Secretary of the State.

(OR)

The _____ day of _____

In Witness Whereof:	DATE <u>6/14/12</u>	SIGNED (<i>Head of Board, Agency or Commission</i>) <i>[Signature]</i>	OFFICIAL TITLE, DULY AUTHORIZED INSURANCE COMMISSIONER
Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, C. G. S.:	SIGNED <i>[Signature]</i>	DATE <u>6/26/12</u>	OFFICIAL TITLE, DULY AUTHORIZED ASSOC. ATTY GENERAL

Approved

Disapproved

Disapproved in part, (Indicate Section Numbers disapproved only)

Rejected without prejudice.

By the Legislative Regulation Review Committee in accordance With Sec. 4-170, as amended, of the General Statutes.	DATE <u>10/23/12</u>	SIGNED (<i>Clerk of the Legislative Regulation Review Committee</i>) <i>[Signature]</i>
---	-------------------------	--

Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-172, as amended, of the General Statutes.

DATE	SIGNED (<i>Secretary of the State.</i>)	BY
------	---	----

INSTRUCTION

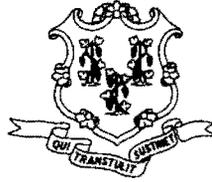
1. One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the General Statutes.
2. Seventeen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes.
3. Each regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-172 of the General Statutes.
4. Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in capitol letters and deleted language in brackets. Section 4-170 of the General Statutes.

The Connecticut General Assembly

Legislative Commissioners' Office

Edwin J. Maley, Jr.
Commissioner
William A. Hamzy
Commissioner

Larry G. J. Shapiro
Director



Legislative Office Building
Suite 5500
Hartford, Connecticut
06106-1591
(860) 240-8410
fax (860) 240-8414
e-mail: lco@cga.ct.gov

Memorandum

To: Legislative Regulation Review Committee
From: Legislative Commissioners' Office
Committee Meeting Date: October 23, 2012

Regulation No:	2012-41
Agency:	Insurance Department
Subject Matter:	Requirements for Replacement of Life Insurance and Annuities
Statutory Authority: (copy attached)	38a-435

	Yes or No
Mandatory	N
Federal Requirement	N
Permissive	Y

For the Committee's Information:

Substantive Concerns:

1. On pages 8 and 10, sections 38a-435-5(a)(3) and 38a-435-6(a) of the proposed regulation provide, in part, that replacing and existing insurers be able to produce copies of certain records for at least five years but such sections do not state the trigger for when said five-year period begins to run (e.g. date of application, date of submission to insurer, effective date of policy or contract). These provisions should be amended to specify the trigger for said five year period.

2. On pages 10 and 11, section 38a-435-7(b)(1) of the proposed regulation provides, in part:

"...The insurer's obligation to obtain the applicant's signature shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the notice referred to in this paragraph. The requirement to make a diligent effort shall be satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed notice referred to in this section; ..."

The instant language is unclear because section 38a-435-7 does not establish a requirement to obtain the applicant's signature. Moreover, said section does not require the notices described in said section to be signed by the applicant.

Technical Corrections:

1. Throughout the proposed regulation, "sections 38a-435-1 through 38a-435-8" should be "sections 38a-435-1 to 38a-435-8" for proper form.

2. Throughout the proposed regulation, whenever "**Section**" appears in the section heading, it should be "**Sec.**" and a bold period should be inserted after the section number for proper form.

3. On page 1, in line 1 of section 38a-435-1(a)(2)(A), "assure" should be "Ensure" for proper form, and in line 1 of section 38a-435-1(a)(2)(B), "reduce" should be "Reduce" for proper form.

4. On page 1, in line 1 of section 38a-435-1(b), "otherwise" should be deleted as unnecessary.

5. On page 1, in line 2 of section 38a-435-1(b)(3), "service" should be inserted after "funeral" for consistency with the General Statutes.

6. On page 1, in line 6 of section 38a-435-1(b)(4), "being" should be inserted before "exercised" for consistency.

7. On page 2, in lines 1-2 of section 38a-435-1(b)(6)(B), "subdivision (6) of this subsection" should be "this subdivision" for proper form.

8. On page 2, in line 1 of section 38a-435-1(b)(7), "life insurance" should be deleted for consistency.
9. On page 2, in line 2 of section 38a-435-1(b)(9), "annuity" should be deleted for consistency; and in line 3 of said section, "life insurance" should be deleted for consistency.
10. On page 3, in line 1 of section 38a-435-1(c), "(C)" should be "(c)" for proper form; and in line 2 of said section, "38a-435-6(b)" should be "38a-435-6(2)" for accuracy.
11. On page 3, in section 38a-435-2, the following definitions should be inserted for clarity and the subdivisions renumbered accordingly:
 - "(2) "Contract" means an annuity contract."
 - "(7) "Policy" means a life insurance policy."
12. On page 3, in line 1 of section 38a-435-2(2), the hyphen between "Direct" and "response" should be deleted for consistency; and in line 3 of said section, "mails" should be "mail" for proper form.
13. On page 3, in line 1 of section 38a-435-2(3), "existing" should be inserted before "policy" for clarity.
14. On page 3, in lines 1 and 2 of section 38a-435-2(4), "Existing policy or contract" means an individual life insurance policy (policy) or annuity contract (contract) in" should be "(5) "Existing policy or contract", "existing policy" or "existing contract" means an individual policy or individual contract, as applicable, in" for clarity.
15. On page 3, in line 8 of section 38a-435-2(5), "policyholder" should be "policy owner" for consistency; in line 12 of said section, "policyholder's" should be "policy owner's" for consistency; and in lines 13-14 of said section, "is not intended to increase or decrease" should be "shall not affect" for clarity.
16. On page 3, in line 2 of section 38a-435-2(7)(A), "a policy" should be "such policy" for clarity.
17. On page 4, in line 1 of section 38a-435-2(8), ' "Producer," means a person as defined in' should be ' "Producer" has the same meaning as provided in' for proper form.
18. On page 4, in section 38a-435-2(11), the designators "(a)" to "(e)", inclusive, should be "(A)" to "(E)", respectively, for proper form.
19. On page 4, in line 1 of section 38a-435-2(12), "a sales" should be "an" for clarity; and in line 3 of said section, "or" before "completed" should be deleted for clarity.

20. On page 5, in line 4 of section 38a-435-3(b), "unless such reading has been waived by the applicant," should be inserted after "application" for clarity; in line 5 of said section, "of sections 38a-435-1 to 38a-435-8, inclusive, of the Regulations of Connecticut State Agencies" should be inserted after "Appendix A" for clarity; in line 13 of said section, a comma should be inserted after "aloud" and "(in which case the producer need not have read" should be deleted, for clarity; and in line 14 of said section, "the notice aloud)" should be deleted and "a copy" should be inserted before "left", for clarity.

21. On page 5, in line 1 of section 38a-435-3(c), "life insurance policies or annuities" should be "policies or contracts" for consistency; in line 2 of said section, "properly" should be deleted for clarity; and in line 3 of said section, "the name of" should be inserted before "the insured" for clarity and "the existing" should be inserted before "insurer," for consistency.

22. On page 5, in line 1 of section 38a-435-3(d), "transaction," should be deleted and a comma should be inserted after "replacement", for clarity.

23. On page 5, in line 2 of section 38a-435-3(e), a comma should be inserted after "Agencies" for clarity and a comma should be inserted after "replacement" for clarity; and in line 3 of said section, "transaction," should be deleted for consistency;

24. On page 6, in lines 7 and 8 of section 38a-435-3(e), "materials" should be "material" for consistency.

25. On page 6, in the introductory sentence of section 38a-435-4, "that uses producers" should be inserted after "insurer" for clarity.

26. On page 6, in line 1 of section 38a-435-4(a), "insure" should be "ensure" for proper grammar; and in line 4 of said section, a period should be inserted after "Agencies", "that" should be deleted, and "Such system may include, but need not be limited to, systematic customer surveys, interviews, confirmation letters or internal monitoring programs, and" should be inserted before "shall", for proper form.

27. On page 6, in line 1 of section 38a-435-4(a)(1), "Inform" should be "Informing" for proper form.

28. On page 6, in line 1 of section 38a-435-4(a)(2), "Provide" should be "Providing" for proper form; in line 3 of said section, "and" should be inserted after "replacements" for proper form.

29. On page 6, in line 2 of section 38a-435-4(a)(3), "transaction" should be deleted for consistency; and in line 3 of said section, "paragraph" should be "subdivision" for proper form.

30. On page 6, in line 4 of section 38a-435-4(a)(5), the period after "producer" should be a semicolon and "Compliance with sections 38a-435-1 through 38a-" should be deleted, for clarity; and lines 5 to 8, inclusive, of said section should be deleted for clarity.

31. On page 6, in line 1 of section 38a-435-4(b), "life insurance" should be deleted for internal consistency; and in line 2 of said section, "annuity" should be deleted for internal consistency.
32. On page 7, in line 1 of section 38a-435-4(b)(1), "Life" should be "Policy" for internal consistency.
33. On page 7, in line 1 of section 38a-435-4(b)(3), "Annuity contract" should be "Contract" for internal consistency.
34. On page 7, in line 3 of section 38a-435-4(d), "of sections 38a-435-1 to 38a-435-8, inclusive, of the Regulations of Connecticut State Agencies" should be inserted after "Appendix A" for clarity.
35. On page 7, in lines 1-2 of section 38a-435-4(e), "each insurer shall" should be deleted for proper form.
36. On page 7, in line 1 of section 38a-435-4(h), "Maintains" should be "Maintain" for proper form.
37. On page 8, in line 1 of section 38a-435-5(a)(2), "other" should be deleted for clarity; in line 3 of said section, "from receipt of" should be "after receiving" for clarity; in line 5 of said section, the comma after "application" should be a period and "and" should be "The replacing insurer shall", for clarity; and in line 9 of said section, "of" should be "after receiving" for consistency.
38. On page 8, in line 3 of section 38a-435-5(a)(4), "from receipt of" should be "after receiving" for clarity; in line 10 of said section, "; such" should be ". Such" for proper form; and in line 11 of said section, "the notice described in" should be inserted after "in" for accuracy, and "of sections 38a-435-1 to 38a-435-8, inclusive, of the Regulations of Connecticut State Agencies" should be inserted after "Appendix A or C" for clarity.
39. On page 9, in line 3 of section 38a-435-5(c), "made of an insurer pursuant to" should be "of" for clarity.
40. On page 9, in line 1 of section 38a-435-5(c)(2). "from" should be "after" for clarity.
41. On page 9, in line 2 of section 38a-435-5(c)(2)(A), "by" should be "from" for clarity.
42. On page 9, in line 1 of section 38a-435-5(c)(3), "Be able to produce" should be "Produce" for clarity, and "set forth in subdivision (2)(A) of this subsection" should be inserted after "letter" for clarity.
43. On page 10, in section 38a-435-6, the designators "(a)" to "(c)", inclusive, should be "(1)" to "(3)", respectively, for proper form.

44. On page 10, in line 3 of section 38a-435-6(b), a comma should be inserted after "or" for clarity; in line 4 of said section, "policy summary" should be deleted for clarity; in line 5 of said section "from receipt of" should be "after receiving" for clarity; in line 6 of said section, ", a policy summary" should be inserted after "replaced" for clarity; and in line 8 of said section, "from receipt of" should be "after receiving" for clarity.

45. On page 10, in line 2 of section 38a-435-6(c), "to the policy owner" should be inserted after "notice" for clarity.

46. On page 10, in line 10 of section 38a-435-7(a), "of sections 38a-435-1 to 38a-435-8, inclusive, of the Regulations of Connecticut State Agencies" should be inserted after "Appendix B" for clarity.

47. On page 10, in line 3 of section 38a-435-7(b)(1), "of sections 38a-435-1 to 38a-435-8, inclusive, of the Regulations of Connecticut State Agencies" should be inserted after "Appendix C" for clarity.

48. On page 11, in line 2 of section 38a-435-7(b)(2), the comma after "Agencies" should be deleted for proper form.

49. The pages of the proposed regulation, including the appendices, should be renumbered to reflect the actual number of pages that comprise the proposed regulation, for clarity and the Statement of Purpose should be placed at the end of the regulation, following the appendices .

50. Appendix A, Appendix B and Appendix C should be designated as "(NEW)" for proper form and clarity.

51. A new effective date entry has been typed on the certification page that provides that the proposed regulation is effective "90 days after the Regulation is adopted". Pursuant to Section 4-170 of the Connecticut General Statutes, a proposed regulation is effective after the regulation is filed in the office of the Secretary of the State by the agency as provided in Section 4-172 of the Connecticut General Statutes, not upon approval of the regulation by the regulation review committee. The effective date should reference the date of filing with the office of the Secretary of the State, rather than the date of adoption, for purposes of clarity and accuracy.

Recommendation:

<p>Approval in whole with technical corrections with deletions with substitute pages Disapproval in whole or in part <input checked="" type="checkbox"/> Rejection without prejudice</p>
--

Reviewed by: Kumi Sato / Bradford M. Towson

Date: October 10, 2012

Sec. 38a-435. (Formerly Sec. 38-147a). Regulations re replacement of or borrowing on life insurance products, policies or contracts. 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) the form in which such offer or proposal should be made; (b) the form of notice to the insurance companies involved; (c) the questions to be contained in application forms for life insurance products pertaining to existing insurance; and (d) the form of notice to the purchaser. The commissioner may suspend or revoke the license of any insurance producer violating any such regulation.