



Senate

General Assembly

File No. 51

January Session, 2015

Senate Bill No. 871

Senate, March 10, 2015

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING THE INSURANCE DEPARTMENT'S MARKET CONDUCT AUTHORITY.

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

1 Section 1. Section 38a-15 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) The commissioner shall, as often as the commissioner deems it
4 expedient, undertake a market conduct examination of the affairs of
5 any insurance company, health care center, third-party administrator,
6 as defined in section 38a-720, or fraternal benefit society doing
7 business in this state. Any such examination shall be conducted in
8 accordance with the procedures and definitions set forth in the
9 National Association of Insurance Commissioners' Market Regulation
10 Handbook.

11 (b) To carry out the examinations under this section, the
12 commissioner may appoint, as market conduct examiners, one or more
13 competent persons, who shall not be officers of, or connected with or

14 interested in, any insurance company, health care center, third-party
15 administrator or fraternal benefit society, other than as a policyholder.
16 In conducting the examination, the commissioner, the commissioner's
17 actuary or any examiner authorized by the commissioner may
18 examine, under oath, the officers and agents of such insurance
19 company, health care center, third-party administrator or fraternal
20 benefit society and all persons deemed to have material information
21 regarding the company's, center's, administrator's or society's property
22 or business. Each such company, center, administrator or society, its
23 officers and agents, shall produce the books and papers, in its or their
24 possession, relating to its business or affairs, and any other person may
25 be required to produce any book or paper in such person's custody,
26 deemed to be relevant to the examination, for the inspection of the
27 commissioner, the commissioner's actuary or examiners, when
28 required. The officers and agents of the company, center, administrator
29 or society shall facilitate the examination and aid the examiners in
30 making the same so far as it is in their power to do so.

31 (c) Each market conduct examiner shall make a full and true report
32 of each market conduct examination made by such examiner, which
33 shall comprise only facts appearing upon the books, papers, records or
34 documents of the examined company, center, administrator or society
35 or ascertained from the sworn testimony of its officers or agents or of
36 other persons examined under oath concerning its affairs. The
37 examiner's report shall be presumptive evidence of the facts therein
38 stated in any action or proceeding in the name of the state against the
39 company, center, administrator or society, its officers or agents. The
40 commissioner shall grant a hearing to the company, center,
41 administrator or society examined before filing any such report and
42 may withhold any such report from public inspection for such time as
43 the commissioner deems proper. The commissioner may, if the
44 commissioner deems it in the public interest, publish any such report,
45 or the result of any such examination contained therein, in one or more
46 newspapers of the state.

47 (d) All the expense of any examination made under the authority of

48 this section, other than examinations of domestic insurance companies
49 and domestic health care centers, shall be paid by the company, center,
50 administrator or society examined, and domestic insurance companies
51 and other domestic entities examined outside the state shall pay the
52 traveling and maintenance expenses of examiners.

53 (e) (1) No cause of action shall arise nor shall any liability be
54 imposed against the commissioner, the commissioner's authorized
55 representative or any examiner appointed or engaged by the
56 commissioner for any statements made or conduct performed in good
57 faith while carrying out the provisions of this section.

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

65 (3) This subsection shall not abrogate or modify any common law or
66 statutory privilege or immunity heretofore enjoyed by any person
67 identified in subdivision (1) of this subsection.

68 (f) Nothing in this section shall be construed to prevent or prohibit
69 the commissioner from disclosing at any time the content or results of
70 an examination report or a preliminary examination report or any
71 matter relating thereto, to (1) the insurance regulatory officials of this
72 state or any other state or country, (2) law enforcement officials of this
73 or any other state, or (3) any agency of this or any other state or of the
74 federal government, provided such officials or agency receiving the
75 report or matters relating thereto agrees, in writing, to hold such report
76 or matters confidential.

77 (g) All workpapers, recorded information, documents and copies
78 thereof produced by, obtained by or disclosed to the commissioner or
79 any other person in the course of an examination made under the

80 authority of this section shall be confidential and privileged, shall not
81 be subject to disclosure under section 1-210, shall not be subject to
82 subpoena, shall not be subject to discovery and shall not be made
83 public by the commissioner or any other person except to the extent
84 provided in subsection (f) of this section. The commissioner may grant
85 access to such workpapers, recorded information, documents and
86 copies to the National Association of Insurance Commissioners as long
87 as it agrees, in writing, to hold such workpapers, recorded
88 information, documents and copies confidential.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	38a-15

INS *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill sets certain standards for the Department of Insurance when conducting market conduct examinations. The bill also expands the work paper confidentiality provisions concerning these examinations. There is no fiscal impact from these changes.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**SB 871*****AN ACT CONCERNING THE INSURANCE DEPARTMENT'S MARKET CONDUCT AUTHORITY.*****SUMMARY:**

This bill requires the insurance commissioner, when performing market conduct examinations of insurers and other regulated entities, to do so in accordance with the National Association of Insurance Commissioners' (NAIC) Market Regulation Handbook. By law, the commissioner may examine regulated entities (i.e., insurers, HMOs, third-party administrators, and fraternal benefit societies doing business in Connecticut) to determine their compliance with applicable state laws and regulations. The commissioner appoints examiners to perform the examinations.

The bill immunizes from liability: (1) the commissioner, her authorized representatives, and appointed examiners for statements made or conduct performed in good faith during an examination and (2) anyone who, in good faith and without the intent to defraud or deceive, gives the above people information in support of an examination. It does not abrogate or modify any common law or statutory privilege or immunity the commissioner, her representatives, or appointed examiners currently enjoy.

Under the bill, examination workpapers, recorded information, documents, and copies of these are (1) confidential and privileged, (2) not subject to disclosure under the Freedom of Information Act, and (3) not subject to subpoena or discovery. The bill prohibits anyone, including the commissioner, from making such information public, but it allows her to give the NAIC access to the information, if the NAIC agrees in writing to keep it confidential.

Lastly, the bill allows the commissioner to share examination reports, preliminary reports, or their results with insurance regulatory officials, law enforcement officials, and government agencies, if the recipient agrees in writing to keep the information confidential. (In practice, the Insurance Department makes final examination reports publicly available on its website.)

EFFECTIVE DATE: October 1, 2015

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 17 Nay 0 (02/25/2015)