



General Assembly

January Session, 2015

Raised Bill No. 6866

LCO No. 3519



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

***AN ACT LIMITING PRIVATE PASSENGER NONFLEET AUTOMOBILE
INSURANCE UNDERWRITING FACTORS AND INCREASING THE
MOTOR VEHICLE MINIMUM AMOUNT OF PROOF OF FINANCIAL
RESPONSIBILITY FOR PROPERTY DAMAGE.***

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

1 Section 1. Section 38a-686 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 The following standards, methods and criteria shall apply to the
4 making and use of rates pertaining to personal risk insurance:

5 (a) Rates shall not be excessive, inadequate or unfairly
6 discriminatory.

7 (1) A rate in a competitive market is not excessive. A rate in a
8 noncompetitive market including a rate for insurance provided
9 pursuant to sections 38a-328, 38a-329 and 38a-670 is excessive if it is
10 unreasonably high for the insurance provided.

11 (2) No rate shall be held inadequate unless (A) it is unreasonably

12 low for the insurance provided, and (B) continued use of it would
13 endanger solvency of the insurer, or unless (C) such rate is
14 unreasonably low for the insurance provided and the use of such rate
15 by the insurer [using same] has, or, if continued will have, the effect of
16 destroying competition or creating a monopoly.

17 (b) In determining whether rates comply with the excessiveness
18 standard in a noncompetitive market under subdivision (1) of
19 subsection (a) of this section, the inadequacy standard under
20 subdivision (2) of subsection (a) of this section and the requirement
21 that rates not be unfairly discriminatory, the following criteria shall
22 apply:

23 (1) Consideration may be given, to the extent possible, to past and
24 prospective loss experience within and outside this state, to
25 conflagration and catastrophe hazards, to a reasonable margin for
26 underwriting profit and contingencies, to past and prospective
27 expenses both country-wide and those specially applicable to this
28 state, to investment income earned or realized by insurers both from
29 their unearned premium and loss reserve funds, and to all other
30 factors, including judgment factors, deemed relevant within and
31 outside this state and in the case of fire insurance rates, consideration
32 may be given to the experience of the fire insurance business during
33 the most recent five-year period for which such experience is available.
34 Consideration may be given in the making and use of rates to
35 dividends, savings or unabsorbed premium deposits allowed or
36 returned by insurers to their policyholders, members or subscribers.

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

42 (B) (i) With respect to private passenger nonfleet automobile

43 insurance, an insurer shall not allocate as flat dollar amounts to base
44 rates: (I) Producer commissions; (II) premium taxes; (III) underwriting
45 profits; or (IV) contingencies.

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

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

57 (3) [Risks] Except as otherwise provided in subdivision (4) of this
58 subsection, risks may be grouped by classifications for the
59 establishment of rates and minimum premiums. [, provided that with
60 respect to private passenger nonfleet automobile insurance, any
61 change in territorial classifications shall be subject to prior approval by
62 the Insurance Commissioner, and provided no surcharge on any motor
63 vehicle liability or physical damage insurance premium shall be
64 assigned for (A) any accident involving only property damage of one
65 thousand dollars or less, (B) the first accident involving only property
66 damage of more than one thousand dollars which would otherwise
67 result in a surcharge to the policy of the insured, within the experience
68 period set forth in the insurer's safe driver classification plan, (C) any
69 violation of section 14-219 unless such violation results in the
70 suspension or revocation of the operator's license under section 14-
71 111b, (D) less than three violations of section 14-218a within any one-
72 year period, (E) any accident caused by an operator other than the
73 named insured, a relative residing in the named insured's household,
74 or a person who customarily operates the insured vehicle, (F) the first

75 or second accident within the current experience period in relation to
76 which the insured was not convicted of a moving traffic violation and
77 was not at fault, or (G) any motor vehicle infraction. Subparagraph (G)
78 of this subdivision shall not be applicable to any plan established
79 pursuant to section 38a-329.] Classification rates may be modified to
80 produce rates for individual risks in accordance with rating plans that
81 provide for recognition of variations in hazards or expense provisions
82 or both. Such rating plans may include application of the judgment of
83 the insurer and may measure any differences among risks that can be
84 demonstrated to have a probable effect upon losses or expenses.

85 (4) [Each rating plan for private passenger nonfleet automobile
86 insurance that includes territorial classifications shall assign a weight
87 of seventy-five per cent to individual territorial loss cost indication and
88 twenty-five per cent to the state-wide average loss cost indication.]
89 With respect to private passenger nonfleet automobile insurance, for
90 policies issued or renewed on or after October 1, 2015, an insurer shall
91 only use an applicant's or insured's driving history, the number of
92 miles driven annually and years of driving experience as underwriting
93 or rating factors.

94 (5) [Each] Except as otherwise provided in subdivision (4) of this
95 subsection, each rating plan shall establish appropriate eligibility
96 criteria for determining significant risks that are to qualify under the
97 plan. Rating plans that comply with the provisions of this subdivision
98 shall be deemed to produce rates that are not unfairly discriminatory.

99 (6) With respect to personal risk insurance other than private
100 passenger nonfleet automobile insurance, an insurer shall not use an
101 applicant's or insured's credit history as a factor in underwriting or
102 rating except in accordance with this subdivision. For the purposes of
103 this section, "credit history" means any credit-related information
104 derived from or found in a credit report or credit scoring program or
105 provided in an application for personal risk insurance, and "financial
106 history measurement program" means a program that uses an

107 applicant's credit history to measure such applicant's risk of loss.

108 (A) An insurer shall file with the commissioner any financial history
109 measurement program it uses to underwrite or rate risks for personal
110 risk insurance. Such filing shall (i) include a description of the
111 program, (ii) identify the characteristics used in such program from
112 which a measurement is derived, (iii) include the rules and procedures
113 of such program, and (iv) include an explanation of the impact of
114 credit information and items of public record on insurance rates over
115 time. Such program shall not unfairly discriminate among applicants
116 or produce rates that are excessive for the risk assumed. Any filing
117 made pursuant to this subparagraph shall be considered a trade secret
118 for the purposes of section 1-210.

119 (B) (i) An insurer that uses a financial history measurement program
120 shall submit to the commissioner documentation that demonstrates the
121 correlation between such program and the expected risk of loss, and
122 how such program impacts consumers (I) in urban territories, versus
123 consumers in nonurban territories, and (II) based on consumers' ages.
124 The commissioner may request the insurer to provide a financial
125 history measurement for a set of test examples that reflect various
126 characteristics.

127 (ii) An insurer that uses a financial history measurement program
128 shall disclose to each applicant for personal risk insurance, in writing,
129 by telephone, by electronic mail or orally, at the time of application
130 that the applicant's credit history may be used in the underwriting or
131 rating of such applicant's policy, and that the applicant has the right to
132 request, in writing, that the insurer consider, during its underwriting
133 or rating process or during a review requested by such applicant of a
134 rate quote, an extraordinary life circumstance, as set forth in
135 subparagraph (D) of this subdivision, if such applicant's credit history
136 has been adversely impacted by such extraordinary life circumstance
137 and such extraordinary life circumstance occurred within three years
138 before the date of the application. In addition, such insurer shall

139 provide to each purchaser of such policy, not later than the date of
140 issuance of such policy, a written disclosure that includes: (I) The
141 name, address, telephone number and toll-free telephone number, if
142 applicable, of the insurer; (II) detailed information about how the
143 insurer uses credit information to underwrite or rate such policies; and
144 (III) a summary of consumer protections regarding the use of credit, in
145 a form determined by the commissioner. Such written disclosure shall
146 be printed in reasonably conspicuous type and be provided by the
147 insurer electronically, by mail or by hand delivery.

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

153 (ii) An insurer shall not use the following characteristics in a
154 financial history measurement program: (I) The number of credit
155 inquiries in an applicant's or insured's credit report or credit history;
156 (II) the applicant's or insured's use of a particular type of credit card,
157 debit card or charge card; (III) the applicant's or insured's total
158 available line of credit; (IV) any disputed credit information while such
159 dispute is under review by a credit reporting company, provided such
160 information is identified in an applicant's or insured's credit report or
161 credit history as being in dispute; (V) collection accounts identified
162 with a medical industry code in the applicant's or insured's credit
163 report or credit history; and (VI) the applicant's or insured's lack of
164 credit history, unless the insurer treats the applicant or insured as if
165 such applicant or insured had neutral credit information, as defined by
166 the insurer.

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

170 (D) (i) Upon written request by an applicant, an insurer shall
171 consider, during its underwriting or rating process or during a review
172 requested by such applicant of a rate quote, an extraordinary life
173 circumstance of such applicant if such extraordinary life circumstance
174 occurred within three years before the date of application. If such
175 insurer determines that such applicant's credit history has been
176 adversely impacted by such extraordinary life circumstance, such
177 insurer shall grant a reasonable exception to such insurer's rates, rating
178 classifications or underwriting rules for such applicant. As used in this
179 subparagraph, "extraordinary life circumstance" means (I) a
180 catastrophic illness or injury, (II) divorce, (III) the death of a spouse,
181 child or parent, (IV) the involuntary loss of employment for more than
182 three consecutive months, (V) identity theft, (VI) total or other loss that
183 makes a home uninhabitable, (VII) other circumstances as may be
184 adopted in regulations by the commissioner, in accordance with
185 chapter 54, or (VIII) any other circumstance an insurer may choose to
186 recognize.

187 (ii) An insurer may require the applicant to provide reasonable,
188 independently verifiable written documentation of the extraordinary
189 life circumstance and the effect of such extraordinary life circumstance
190 on such applicant's credit report or credit history. Any such
191 documentation shall be kept confidential by the insurer.

192 (iii) If the insurer grants an exception pursuant to subparagraph
193 (D)(i) of this subdivision, the insurer shall (I) consider only credit
194 information that is not affected by the extraordinary life circumstance,
195 or (II) treat the applicant as if such applicant had neutral or better than
196 neutral credit information, as defined by the insurer.

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

201 (E) (i) If an insurer takes an adverse action that is due at least in part
202 to the information contained in an applicant's or insured's credit
203 report, such insurer shall disclose to such applicant or insured: (I) That
204 such adverse action was based on the credit report of such insured or
205 applicant; (II) that such applicant or insured is entitled to a free copy of
206 such credit report and where such report can be obtained; (III) the
207 types of extraordinary life circumstances set forth in subparagraph (D)
208 of this subdivision; and (IV) the procedures for an applicant to inform
209 the insurer of an extraordinary life circumstance and to submit any
210 required documentation pursuant to subparagraph (D) of this
211 subdivision.

212 (ii) For the purposes of this subdivision, an "adverse action" means
213 (I) the denial of coverage to an applicant or insured or the offering of
214 restricted coverage, (II) the offering of a higher rate, (III) the
215 assignment of an applicant or insured to a higher rate tier or to a
216 higher-priced company within an insurer group, or (IV) any other
217 action that adversely impacts an applicant or insured due to the
218 financial history measurement program.

219 (F) After an insurer's financial history measurement program has
220 been in effect for two years, the commissioner may require such
221 insurer to submit a report to the commissioner on the use of such
222 program in the state. Such report shall include information that
223 demonstrates that such program results in rates that are supported by
224 the data and that are not unfairly discriminatory, and an analysis of
225 consumer complaints submitted in writing or by electronic mail to the
226 insurer resulting from such insurer's use of a financial history
227 measurement program, such that is sufficient to identify the basis for
228 the complaints and any subsequent insurer action.

229 (c) Notwithstanding the provisions of subsections (a) and (b) of this
230 section, no rate shall include any adjustment designed to recover
231 underwriting or operating losses incurred out-of-state.

232 [(d) Not later than January 1, 2012, the commissioner shall adopt
233 regulations, in accordance with the provisions of chapter 54, to
234 implement the provisions of this section and the most current
235 guidelines and bulletins issued by the Insurance Department and in
236 effect that pertain to territorial classifications.]

237 Sec. 2. Subsection (a) of section 14-112 of the general statutes is
238 repealed and the following is substituted in lieu thereof (*Effective*
239 *October 1, 2015*):

240 (a) To entitle any person to receive or retain a motor vehicle
241 operator's license or a certificate of registration of any motor vehicle
242 when, in the opinion of the commissioner, such person has a record on
243 file with the commissioner which is sufficient, in the opinion of the
244 commissioner, to require evidence of financial responsibility for the
245 reasonable protection of other persons, the commissioner shall require
246 from such person proof of financial responsibility to satisfy any claim
247 for damages by reason of personal injury to, or the death of, any one
248 person, of twenty thousand dollars, or by reason of personal injury to,
249 or the death of, more than one person on account of any accident, of at
250 least forty thousand dollars, and for damage to property of at least
251 [ten] twenty-five thousand dollars. When the commissioner requires
252 proof of financial responsibility from an operator or owner of any
253 motor vehicle, he or she may require proof in the amounts herein
254 specified for each vehicle operated or owned by such person. If any
255 person fails to furnish such proof, the commissioner shall, until such
256 proof is furnished, suspend or revoke the license of such person to
257 operate a motor vehicle or refuse to return any license which has been
258 suspended or revoked in accordance with the provisions of section 14-
259 111 or suspend or revoke the registration of any such motor vehicle or
260 vehicles or refuse thereafter to register any motor vehicle owned by
261 such person or refuse to register any motor vehicle transferred by him
262 if it does not appear to the commissioner's satisfaction that such
263 transfer is a bona fide sale, or, if such person is not a resident of this
264 state, withdraw from such person the privilege of operating any motor

265 vehicle in this state and the privilege of operation within this state of
266 any motor vehicle owned by him. Prior to such suspension, revocation
267 or withdrawal, notice thereof shall be given by the commissioner by a
268 notice forwarded by bulk certified mail to the address of such person
269 as shown by the records of the commissioner. No appeal taken from
270 the judgment of any court shall act as a stay to any action of the
271 commissioner authorized by the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	38a-686
Sec. 2	<i>October 1, 2015</i>	14-112(a)

Statement of Purpose:

To (1) limit the underwriting or rating of private passenger nonfleet automobile insurance policies issued or renewed on or after October 1, 2015, to an applicant's or insured's driving history, the number of miles driven annually and years of driving experience, and (2) increase the motor vehicle minimum amount of proof of financial responsibility for damage to property to twenty-five thousand dollars.

[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.]