



General Assembly

January Session, 2015

**Raised Bill No. 983**

LCO No. 3569



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:  
(INS)

**AN ACT CONCERNING THE INSURANCE DEPARTMENT'S  
FINANCIAL REGULATORY OVERSIGHT OF INSURANCE  
COMPANIES.**

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

1 Section 1. Subsection (e) of section 38a-14 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective July*  
3 *1, 2015*):

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

10 (2) Nothing contained in this section shall be construed to limit the  
11 commissioner's authority in such legal or regulatory action to use and,  
12 if appropriate, to make public any final or preliminary examination  
13 report, any examiner or company workpapers or other documents, or

14 any other information discovered or developed during the course of  
15 any examination.

16 (3) Not later than sixty days following completion of the  
17 examination, the examiner in charge shall file, under oath, with the  
18 Insurance Department a verified written report of examination. Upon  
19 receipt of the verified report, the Insurance Department shall transmit  
20 the report to the entity examined, together with a notice that shall  
21 afford the entity examined a reasonable opportunity, not to exceed  
22 thirty days, to make a written submission or rebuttal with respect to  
23 any matters contained in the examination report. Not later than thirty  
24 days after the period allowed for the receipt of written submissions or  
25 rebuttals, the commissioner shall fully consider and review the report,  
26 together with any written submissions or rebuttals and any relevant  
27 portions of the examiner's workpapers and enter an order: (A)  
28 Adopting the examination report as filed or with modification or  
29 corrections. If the examination report reveals that the entity is  
30 operating in violation of any law, regulation or prior order of the  
31 commissioner, the commissioner may order the company to take any  
32 action the commissioner considers necessary and appropriate to cure  
33 such violation; (B) rejecting the examination report with directions to  
34 the examiners to reopen the examination for purposes of obtaining  
35 additional data, documentation or information, and refileing pursuant  
36 to this subdivision; or (C) calling for an investigatory hearing with not  
37 less than twenty days' notice to the company for purposes of obtaining  
38 additional documentation, data, information and testimony.

39 (4) (A) The commissioner shall transmit the examination report  
40 adopted pursuant to subparagraph (A) of subdivision (3) of this  
41 subsection or a summary thereof to the entity examined, together with  
42 any recommendations or written statements from the commissioner or  
43 the examiner. The secretary of the board of directors or similar  
44 governing body of the entity shall provide a copy of the report or  
45 summary to each director and shall certify to the commissioner, in  
46 writing, that a copy of the report or summary has been provided to

47 each director.

48 (B) Not later than one hundred twenty days after receiving the  
49 report or summary, the chief executive officer or the chief financial  
50 officer of the entity examined shall present the report or summary to  
51 the entity's board of directors or similar governing body at a regular or  
52 special meeting.

53 Sec. 2. Subsection (e) of section 38a-53 of the general statutes is  
54 repealed and the following is substituted in lieu thereof (*Effective July*  
55 *1, 2015*):

56 (e) Any insurance company or health care center doing business in  
57 this state that fails to file any report or statement required under this  
58 section shall pay a late filing fee of one hundred seventy-five dollars  
59 per day for each day from the due date of such report or statement to  
60 the date of filing. The commissioner may extend the due date of any  
61 report or statement required under this section (1) if the insurance  
62 company or health care center cannot file such report or statement  
63 because the governor of such company's or center's state of domicile  
64 has proclaimed a state of emergency in such state and such state of  
65 emergency impairs the company's or center's ability to file the report  
66 or statement, (2) if the insurance regulatory official of the state of  
67 domicile of a foreign insurance company has permitted such company  
68 to file such report or statement late, or (3) for a domestic insurance  
69 company or health care center, for good cause shown.

70 Sec. 3. Section 38a-69a of the general statutes is repealed and the  
71 following is substituted in lieu thereof (*Effective July 1, 2015*):

72 (a) All financial analyses, financial examination workpapers,  
73 operating and financial condition reports concerning any insurance  
74 company, fraternal benefit society or health care center prepared by or  
75 on behalf of or for the use of the Insurance Commissioner or the  
76 Insurance Department examiner, shall be confidential, [unless such  
77 documents are otherwise a matter of public record, or the

78 commissioner, in the commissioner's opinion deems it in the public  
79 interest to disclose or otherwise make available for public inspection  
80 the information contained in such documents] shall not be subject to  
81 subpoena and shall not be made public by the commissioner or any  
82 other person, except to the extent provided in subsection (c) of this  
83 section. The commissioner may grant access to such analyses,  
84 workpapers and reports to the National Association of Insurance  
85 Commissioners, provided it agrees, in writing, to hold such analyses,  
86 workpapers and reports confidential.

87 (b) Any supplemental compensation exhibit or stockholder  
88 information supplement in an annual report filed with the  
89 commissioner and prepared in accordance with the National  
90 Association of Insurance Commissioners Annual Statement  
91 Instructions shall be confidential and shall not be available for public  
92 inspection if submitted by a nonprofit insurance company that has  
93 fewer than one hundred fifty employees. The provisions of this  
94 subsection shall not apply to information in such exhibit or  
95 supplement concerning such company's three most highly  
96 compensated officers.

97 (c) Nothing contained in this section shall prevent or be construed  
98 as prohibiting the commissioner from disclosing the content of  
99 financial analyses, financial examination workpapers or operating and  
100 financial condition reports or any matter relating thereto, to the  
101 Insurance Department of this or any other state or country, or to law  
102 enforcement officials of this or any other state or to any agency of the  
103 federal government at any time, so long as such department, official or  
104 agency receiving the analyses, workpapers or reports or matters  
105 relating thereto agrees, in writing, to hold such analyses, workpapers  
106 or reports and matters relating thereto confidential.

107 Sec. 4. Subparagraph (A) of subdivision (3) of subsection (e) of  
108 section 38a-85 of the general statutes is repealed and the following is  
109 substituted in lieu thereof (*Effective July 1, 2015*):

110 (3) (A) (i) In the case of a single assuming insurer, the trust shall  
111 consist of a trustee account with funds in an amount not less than the  
112 assuming insurer's liabilities attributable to reinsurance ceded by  
113 domestic and foreign ceding insurers and, unless otherwise provided  
114 in subparagraph (A)(ii) of this subdivision, the assuming insurer shall  
115 maintain a trustee surplus of not less than twenty million dollars.

116 (ii) (I) The insurance regulatory official with principal oversight of  
117 the trust may authorize a reduction in the required trustee surplus.

118 ~~[(ii)]~~ (II) For a trust over which the commissioner has principal  
119 regulatory oversight, at any time after the assuming insurer has  
120 permanently discontinued for at least three full years underwriting  
121 new business secured by the trust, the commissioner may authorize a  
122 reduction in the required trustee surplus. Such reduction shall be  
123 made only after the commissioner finds, based on a risk assessment,  
124 that the reduced surplus level is adequate to protect domestic and  
125 foreign policyholders and ceding insurers and claimants in light of  
126 reasonably foreseeable adverse loss development. The risk assessment  
127 may involve an actuarial review, including an independent analysis of  
128 reserves and cash flows, and shall consider all material risk factors,  
129 including, when applicable, the lines of business involved, the stability  
130 of the incurred loss estimates and the effect of the surplus  
131 requirements on the assuming insurer's liquidity or solvency. The  
132 minimum required surplus shall not be reduced to an amount less  
133 than thirty per cent of the assuming insurer's liabilities attributable to  
134 reinsurance ceded by domestic and foreign ceding insurers covered by  
135 the trust.

136 Sec. 5. Subdivision (3) of subsection (b) of section 38a-129 of the  
137 general statutes is repealed and the following is substituted in lieu  
138 thereof (*Effective July 1, 2015*):

139 (3) "Control", "controlled by" or "under common control with" has  
140 the same meaning as provided in section 38a-1; [. Control shall be

141 presumed to exist if any person, directly or indirectly, owns, controls,  
142 holds with the power to vote, or holds proxies representing, ten per  
143 cent or more of the voting securities of any other person. This  
144 presumption may be rebutted by a showing that control does not exist  
145 in fact. The commissioner may determine, after furnishing all persons  
146 in interest notice and opportunity to be heard and making specific  
147 findings of fact to support the determination, that control exists in fact,  
148 notwithstanding the absence of a presumption to that effect;]

149 Sec. 6. (NEW) (*Effective July 1, 2015*) (a) For the purposes of sections  
150 38a-129 to 38a-140, inclusive, of the general statutes, as amended by  
151 this act, control shall be presumed to exist if any person, directly or  
152 indirectly, owns, controls, holds with the power to vote, or holds  
153 proxies representing, ten per cent or more of the voting securities of  
154 any other person. This presumption may be rebutted by a showing  
155 that control does not exist in fact.

156 (b) The commissioner may determine, after furnishing all persons in  
157 interest notice and opportunity to be heard, that a person, directly or  
158 indirectly, alone or pursuant to an oral or a written agreement,  
159 arrangement or understanding with one or more other persons,  
160 exercises such influence over the management or policies of an  
161 insurance company that it is necessary or in the public interest for the  
162 protection of such company's policyholders that such person or  
163 persons be deemed to control such company. The commissioner shall  
164 make specific findings of fact to support the determination that control  
165 exists in fact, notwithstanding the absence of a presumption to that  
166 effect.

167 Sec. 7. Subparagraph (A) of subdivision (2) of subsection (a) of  
168 section 38a-130 of the general statutes is repealed and the following is  
169 substituted in lieu thereof (*Effective July 1, 2015*):

170 (2) (A) (i) No person shall enter into an agreement, arrangement or  
171 understanding, whether written or oral, to merge with or otherwise

172 acquire control of a domestic insurance company or any corporation  
173 controlling a domestic insurance company unless, at the time any form  
174 of initial offer, request or invitation is made or the agreement,  
175 arrangement or understanding is entered into, or prior to the  
176 acquisition of such securities or proxies if no offer, [or] agreement,  
177 arrangement or understanding is involved, such person has filed with  
178 the commissioner and has sent to such insurance company a statement  
179 containing the information required by subsection (b) of this section  
180 and such offer, request, invitation, agreement, arrangement,  
181 understanding or acquisition has been approved by the commissioner  
182 in the manner hereinafter prescribed.

183 (ii) If any offer, request, invitation, agreement or acquisition is  
184 proposed to be made by means of a registration statement under the  
185 Securities Act of 1933 or in circumstances requiring the disclosure of  
186 similar information under the Securities Exchange Act of 1934, the  
187 person required to file the statement under subparagraph (A)(i) of this  
188 subdivision may utilize the registration statement or such documents  
189 furnishing the similar information to provide the information required  
190 by subsection (b) of this section, to the extent that the registration  
191 statement or such documents contains such information.

192 Sec. 8. Subdivision (1) of subsection (b) of section 38a-136 of the  
193 general statutes is repealed and the following is substituted in lieu  
194 thereof (*Effective July 1, 2015*):

195 (b) (1) The following transactions involving a domestic insurance  
196 company and any person in its holding company system, including  
197 amendments to or modifications of affiliate agreements previously  
198 filed pursuant to this section and that are subject to any materiality  
199 standards specified in subparagraphs (A) to (G), inclusive, of this  
200 subdivision, may not be entered into unless the insurance company  
201 has notified the commissioner in writing of its intention to enter into  
202 such transaction at least thirty days prior thereto, or such shorter  
203 period as the commissioner may permit, and the commissioner has

204 approved or not disapproved it within such period. The written notice  
205 for such amendments or modifications shall specify the reasons for the  
206 change and the financial impact on the domestic insurance company.  
207 Not later than thirty days after the termination of a previously filed  
208 agreement, the domestic insurance company shall notify the  
209 commissioner of such termination for the commissioner's  
210 determination of what written notice or filing shall be required, if any:

211 (A) Sales, purchases, exchanges, loans or extensions of credit, or  
212 investments, provided such transactions are equal to or exceed: (i)  
213 With respect to nonlife insurance companies, the lesser of three per  
214 cent of the insurance company's admitted assets or twenty-five per  
215 cent of surplus; or (ii) with respect to life insurance companies, three  
216 per cent of the insurance company's admitted assets; each as of the  
217 thirty-first day of December next preceding;

218 (B) Loans or extensions of credit to any person who is not an  
219 affiliate, where the insurance company makes such loans or extensions  
220 of credit with the agreement or understanding that the proceeds of  
221 such transactions, in whole or in substantial part, are to be used to  
222 make loans or extensions of credit to, to purchase assets of, or to make  
223 investments in, any affiliate of the insurance company making such  
224 loans or extensions of credit, provided such transactions are equal to or  
225 exceed: (i) With respect to nonlife insurance companies, the lesser of  
226 three per cent of the insurance company's admitted assets or twenty-  
227 five per cent of surplus; or (ii) with respect to life insurance companies,  
228 three per cent of the insurance company's admitted assets; each as of  
229 the thirty-first day of December next preceding;

230 (C) Reinsurance agreements or modifications thereto, including (i)  
231 all reinsurance pooling agreements, and (ii) agreements in which the  
232 reinsurance premium or a change in the insurance company's  
233 liabilities, or the projected reinsurance premium or a projected change  
234 in the insurance company's liabilities in any of the next three years,  
235 equals or exceeds five per cent of the insurance company's surplus, as

236 of the thirty-first day of December next preceding, including those  
237 agreements that may require as consideration the transfer of assets  
238 from an insurance company to a nonaffiliate, if an agreement or  
239 understanding exists between the insurance company and nonaffiliate  
240 that any portion of such assets will be transferred to one or more  
241 affiliates of the insurance company;

242 (D) All management agreements, service contracts, tax allocation  
243 agreements and cost-sharing arrangements;

244 (E) Guarantees by a domestic insurance company, except that a  
245 guarantee that is (i) quantifiable as to amount, and (ii) does not exceed  
246 the lesser of one-half of one per cent of the insurance company's  
247 admitted assets or ten per cent of surplus with regard to policyholders,  
248 as of the thirty-first day of December next preceding, shall not be  
249 subject to the notice requirement of this subsection;

250 (F) Direct or indirect acquisitions or investments in a person that  
251 controls the domestic insurance company or in an affiliate of the  
252 insurance company in an amount that, together with the insurance  
253 company's present holdings in such investments, exceeds two and one-  
254 half per cent of the insurance company's surplus with regard to  
255 policyholders. This subsection shall not apply to direct or indirect  
256 acquisitions of or investments in (i) subsidiaries acquired pursuant to  
257 section 38a-102d or authorized pursuant to any section of this title  
258 other than sections 38a-129 to 38a-140, inclusive, as amended by this  
259 act, or (ii) nonsubsidiary affiliates that are subject to the provisions of  
260 sections 38a-129 to 38a-140, inclusive, as amended by this act; and

261 (G) Any material transactions, specified by regulation, that the  
262 commissioner determines may adversely affect the interests of the  
263 insurance company's policyholders.

264 Sec. 9. Subsection (a) of section 38a-188 of the general statutes is  
265 repealed and the following is substituted in lieu thereof (*Effective July*  
266 *1, 2015*):

267 Each health care center governed by sections 38a-175 to 38a-192,  
268 inclusive, shall be exempt from the provisions of the general statutes  
269 relating to insurance in the conduct of its operations under said  
270 sections and in such other activities as do constitute the business of  
271 insurance, unless expressly included therein, and except for the  
272 following: Sections 38a-11, 38a-14a, 38a-17, 38a-51, 38a-52, 38a-56, 38a-  
273 57, 38a-129 to 38a-140, inclusive, as amended by this act, 38a-147 and  
274 38a-815 to 38a-819, inclusive, provided a health care center shall not be  
275 deemed in violation of sections 38a-815 to 38a-819, inclusive, solely by  
276 virtue of such center selectively contracting with certain providers in  
277 one or more specialties, and sections 38a-80, 38a-492b, 38a-518b, 38a-  
278 543, 38a-702j, 38a-703 to 38a-718, inclusive, 38a-731 to 38a-735,  
279 inclusive, 38a-741 to 38a-745, inclusive, 38a-769, 38a-770, 38a-772 to  
280 38a-776, inclusive, 38a-786, 38a-790, 38a-792 and 38a-794, provided a  
281 health care center organized as a nonprofit, nonstock corporation shall  
282 be exempt from sections 38a-146, 38a-702j, 38a-703 to 38a-718,  
283 inclusive, 38a-731 to 38a-735, inclusive, 38a-741 to 38a-745, inclusive,  
284 38a-769, 38a-770, 38a-772 to 38a-776, inclusive, 38a-786, 38a-790, 38a-  
285 792 and 38a-794. If a health care center is operated as a line of business,  
286 the foregoing provisions shall, where possible, be applied only to that  
287 line of business and not to the organization as a whole. The  
288 commissioner may adopt regulations, in accordance with chapter 54,  
289 stating the circumstances under which the resources of a person which  
290 controls a health care center, or operates a health care center as a line  
291 of business will be considered in evaluating the financial condition of a  
292 health care center. Such regulations, if adopted, shall require as a  
293 condition to the consideration of the resources of such person [which]  
294 that controls a health care center, or operates a health care center as a  
295 line of business to provide satisfactory assurances to the commissioner  
296 that such person will assume the financial obligations of the health  
297 care center. During the period prior to the effective date of regulations  
298 issued under this section, the commissioner shall, upon request,  
299 consider the resources of a person [which] that controls a health care  
300 center, or operates a health care center as a line of business, if the

301 commissioner receives satisfactory assurances from such person that it  
302 will assume the financial obligations of the health care center and  
303 determines that such person meets such other requirements as the  
304 commissioner determines are necessary. A health care center  
305 organized as a nonprofit, nonstock corporation shall be exempt from  
306 the sales and use tax and all property of each such corporation shall be  
307 exempt from state, district and municipal taxes. Each corporation  
308 governed by sections 38a-175 to 38a-192, inclusive, shall be subject to  
309 the provisions of sections 38a-903 to 38a-961, inclusive. Nothing in this  
310 section shall be construed to override contractual and delivery system  
311 arrangements governing a health care center's provider relationships.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2015</i>	38a-14(e)
Sec. 2	<i>July 1, 2015</i>	38a-53(e)
Sec. 3	<i>July 1, 2015</i>	38a-69a
Sec. 4	<i>July 1, 2015</i>	38a-85(e)(3)(A)
Sec. 5	<i>July 1, 2015</i>	38a-129(b)(3)
Sec. 6	<i>July 1, 2015</i>	New section
Sec. 7	<i>July 1, 2015</i>	38a-130(a)(2)(A)
Sec. 8	<i>July 1, 2015</i>	38a-136(b)(1)
Sec. 9	<i>July 1, 2015</i>	38a-188(a)

**Statement of Purpose:**

To expand the Insurance Department's financial regulatory oversight authority over insurance companies.

*[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.]*