



General Assembly

Amendment

January Session, 2015

LCO No. 8630



Offered by:

SEN. CRISCO, 17th Dist.

SEN. KELLY, 21st Dist.

To: Subst. Senate Bill No. 1025

File No. 271

Cal. No. 194

"AN ACT AUTHORIZING THE CONNECTICUT HEALTH INSURANCE EXCHANGE TO ESTABLISH SUBSIDIARIES."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subsections (a) to (c), inclusive, of section 38a-1083 of the
4 general statutes are repealed and the following is substituted in lieu
5 thereof (*Effective from passage*):

6 (a) For purposes of sections 38a-1080 to [38a-1091] 38a-1092,
7 inclusive, as amended by this act, and section 2 of this act "purposes of
8 the exchange" means the purposes of and the pursuit of the goals of
9 the exchange expressed in and pursuant to this section and the
10 performance of the duties and responsibilities of the exchange set forth
11 in sections 38a-1084 to 38a-1092, inclusive, which are hereby
12 determined to be public purposes for which public funds may be
13 expended. The powers enumerated in this section shall be interpreted

14 broadly to effectuate the purposes of the exchange and shall not be
15 construed as a limitation of powers.

16 (b) The goals of the exchange shall be to reduce the number of
17 individuals without health insurance in this state and assist
18 individuals and small employers in the procurement of health
19 insurance by, among other services, offering easily comparable and
20 understandable information about health insurance options.

21 (c) The exchange is authorized and empowered to:

22 (1) Have perpetual [successions] succession as a body politic and
23 corporate and to adopt bylaws for the regulation of its affairs and the
24 conduct of its business;

25 (2) Adopt an official seal and alter the same at pleasure;

26 (3) Maintain an office in the state at such place or places as it may
27 designate;

28 (4) Employ such assistants, agents, managers and other employees
29 as may be necessary or desirable;

30 (5) Acquire, lease, purchase, own, manage, hold and dispose of real
31 and personal property, and lease, convey or deal in or enter into
32 agreements with respect to such property on any terms necessary or
33 incidental to the carrying out of these purposes, provided all such
34 acquisitions of real property for the exchange's own use with amounts
35 appropriated by this state to the exchange or with the proceeds of
36 bonds supported by the full faith and credit of this state shall be
37 subject to the approval of the Secretary of the Office of Policy and
38 Management and the provisions of section 4b-23;

39 (6) Receive and accept, from any source, aid or contributions,
40 including money, property, labor and other things of value;

41 (7) Charge assessments or user fees to health carriers that are

42 capable of offering a qualified health plan through the exchange or
43 otherwise generate funding necessary to support the operations of the
44 exchange and impose interest and penalties on such health carriers for
45 delinquent payments of such assessments or fees;

46 (8) Procure insurance against loss in connection with its property
47 and other assets in such amounts and from such insurers as it deems
48 desirable;

49 (9) Invest any funds not needed for immediate use or disbursement
50 in obligations issued or guaranteed by the United States of America or
51 the state and in obligations that are legal investments for savings banks
52 in the state;

53 (10) Issue bonds, bond anticipation notes and other obligations of
54 the exchange for any of its corporate purposes, and to fund or refund
55 the same and provide for the rights of the holders thereof, and to
56 secure the same by pledge of revenues, notes and mortgages of others;

57 (11) Borrow money for the purpose of obtaining working capital;

58 (12) Account for and audit funds of the exchange and any recipients
59 of funds from the exchange;

60 (13) Make and enter into any contract or agreement necessary or
61 incidental to the performance of its duties and execution of its powers.
62 The contracts entered into by the exchange shall not be subject to the
63 approval of any other state department, office or agency, provided
64 copies of all contracts of the exchange shall be maintained by the
65 exchange as public records, subject to the proprietary rights of any
66 party to the contract;

67 (14) To the extent permitted under its contract with other persons,
68 consent to any termination, modification, forgiveness or other change
69 of any term of any contractual right, payment, royalty, contract or
70 agreement of any kind to which the exchange is a party;

71 (15) Award grants to trained and certified individuals and
72 institutions that will assist individuals, families and small employers
73 and their employees in enrolling in appropriate coverage through the
74 exchange. Applications for grants from the exchange shall be made on
75 a form prescribed by the board;

76 (16) Limit the number of plans offered, and use selective criteria in
77 determining which plans to offer, through the exchange, provided
78 individuals and employers have an adequate number and selection of
79 choices;

80 (17) Evaluate jointly with the Sustinet Health Care Cabinet the
81 feasibility of implementing a basic health program option as set forth
82 in Section 1331 of the Affordable Care Act;

83 (18) Establish one or more subsidiaries, in accordance with section 2
84 of this act, to further the purposes of the exchange;

85 (19) (A) Make loans to each subsidiary established pursuant to
86 section 2 of this act from the assets of the exchange and the proceeds of
87 bonds, bond anticipation notes and other obligations issued by the
88 exchange, provided the source and security for the repayment of such
89 loans are derived from the assets, revenues and resources of the
90 subsidiary, and (B) assign or transfer to such subsidiary any of the
91 rights, moneys or other assets of the exchange, provided such
92 assignment or transfer is not in violation of state or federal law;

93 ~~[(18)]~~ (20) Sue and be sued, plead and be impleaded;

94 ~~[(19)]~~ (21) Adopt regular procedures that are not in conflict with
95 other provisions of the general statutes, for exercising the power of the
96 exchange; and

97 ~~[(20)]~~ (22) Do all acts and things necessary and convenient to carry
98 out the purposes of the exchange, provided such acts or things shall
99 not conflict with the provisions of the Affordable Care Act, regulations
100 adopted thereunder or federal guidance issued pursuant to the

101 Affordable Care Act.

102 (d) Prior to changing the amount of an assessment or user fee
103 charged to any health carrier pursuant to subdivision (7) of subsection
104 (c) of this section, if such change is for more than a ten per cent
105 increase, the board shall file such proposed change with the clerks of
106 the House of Representatives and the Senate. The General Assembly
107 shall vote to approve or reject such proposed change within thirty days
108 after the date of filing. If the General Assembly fails to vote to approve
109 or reject such proposed change within the thirty-day period, the
110 proposed change shall be deemed approved. The thirty-day period
111 shall not begin or expire unless the General Assembly is in regular
112 session.

113 Sec. 2. (NEW) (*Effective from passage*) (a) The exchange may establish
114 one or more subsidiaries for such purposes as prescribed by resolution
115 of the board of directors of the exchange, which purposes shall be
116 consistent with the purposes of the exchange. Each subsidiary shall be
117 deemed a quasi-public agency for the purposes of chapter 12 of the
118 general statutes and shall have all the privileges, immunities, tax
119 exemptions and other exemptions of the exchange. Any such
120 subsidiary may be organized as a stock or nonstock corporation or a
121 limited liability company.

122 (b) (1) Each subsidiary shall have and may exercise the powers of
123 the exchange and such additional powers as are set forth in such
124 resolution, except the powers of the exchange set forth in subdivisions
125 (7), (12), (15), (16), (17) and (21) of subsection (c) of section 38a-1083 of
126 the general statutes, as amended by this act, shall be reserved to the
127 exchange and shall not be exercisable by any subsidiary of the
128 exchange.

129 (2) Each subsidiary shall include in any contract with any entity a
130 provision that the subsidiary's liability shall be limited solely to the
131 assets, revenues and resources of such subsidiary without recourse to
132 the general funds, revenues or resources or any other assets of the

133 exchange.

134 (3) A subsidiary shall not offer any insurance products other than
135 dental plans and vision plans. Prior to undertaking its initial offering
136 of dental or vision plans through a subsidiary, the board of directors of
137 such subsidiary shall file a proposal for approval of such subsidiary's
138 undertaking with the clerks of the House of Representatives and the
139 Senate. The General Assembly shall vote to approve or reject such
140 proposal within thirty days after the date of filing. If the General
141 Assembly fails to vote to approve or reject such proposal within the
142 thirty-day period, the proposal shall be deemed approved. The thirty-
143 day period shall not begin or expire unless the General Assembly is in
144 regular session. Once the undertaking of the initial offering has been
145 approved, the board shall not be required to file any additional
146 proposals pursuant to this subdivision.

147 (c) (1) Each subsidiary shall act through a board of directors, at least
148 one-half of which shall be members of the board of directors of the
149 exchange or their designees or officers or employees of the exchange.
150 The provisions of subdivision (2) of subsection (b) of section 38a-1081
151 of the general statutes and subdivisions (7) and (9) of subsection (c) of
152 section 38a-1081 of the general statutes shall apply to each member of
153 the board of directors of a subsidiary who is not a member of the board
154 of directors of the exchange, an officer of the exchange or an employee
155 of the exchange.

156 (2) The provisions of section 1-125 of the general statutes shall apply
157 to any member of the board of directors, officer or employee of a
158 subsidiary established under this section. Any such member, officer or
159 employee shall not be personally liable for the debts, obligations or
160 liabilities of any such subsidiary as provided in section 1-125 of the
161 general statutes. Any such subsidiary shall, and the exchange may,
162 save harmless and indemnify any such member, officer or employee as
163 provided in section 1-125 of the general statutes.

164 (d) (1) Each subsidiary to which the exchange makes a loan

165 pursuant to subdivision (19) of subsection (c) of section 38a-1083 of the
166 general statutes, as amended by this act, shall repay such loan from the
167 assets, revenues and resources of such subsidiary.

168 (2) Each subsidiary shall be subject to suit, provided its liability shall
169 be limited solely to the assets, revenues and resources of such
170 subsidiary and without recourse to the general funds, revenues or
171 resources or any other assets of the exchange.

172 (3) Each subsidiary may convey or dispose of its assets and pledge
173 its revenues to secure any borrowing, provided any such borrowing
174 shall be a special obligation of the subsidiary and shall be payable
175 solely from the assets, revenues and resources of the subsidiary.

176 (4) Each subsidiary or the exchange may take any action necessary
177 to comply with the provisions of the Internal Revenue Code of 1986, or
178 any subsequent corresponding internal revenue code of the United
179 States, as amended from time to time, to qualify and maintain any
180 subsidiary as a corporation exempt from taxation under said code.

181 (e) The provisions of subsection (b) of section 38a-1090 of the
182 general statutes shall be applicable to each subsidiary established by
183 the exchange.

184 Sec. 3. Section 38a-1080 of the general statutes is repealed and the
185 following is substituted in lieu thereof (*Effective from passage*):

186 For purposes of sections 38a-1080 to [38a-1091] 38a-1092, inclusive,
187 and section 2 of this act:

188 (1) "Board" means the board of directors of the Connecticut Health
189 Insurance Exchange;

190 (2) "Commissioner" means the Insurance Commissioner;

191 (3) "Exchange" means the Connecticut Health Insurance Exchange
192 established pursuant to section 38a-1081;

193 (4) "Affordable Care Act" means the Patient Protection and
194 Affordable Care Act, P.L. 111-148, as amended by the Health Care and
195 Education Reconciliation Act, P.L. 111-152, as both may be amended
196 from time to time, and regulations adopted thereunder;

197 (5) (A) "Health benefit plan" means an insurance policy or contract
198 offered, delivered, issued for delivery, renewed, amended or
199 continued in the state by a health carrier to provide, deliver, pay for or
200 reimburse any of the costs of health care services.

201 (B) "Health benefit plan" does not include:

202 (i) Coverage of the type specified in subdivisions (5), (6), (7), (8), (9),
203 (14), (15) and (16) of section 38a-469 or any combination thereof;

204 (ii) Coverage issued as a supplement to liability insurance;

205 (iii) Liability insurance, including general liability insurance and
206 automobile liability insurance;

207 (iv) Workers' compensation insurance;

208 (v) Automobile medical payment insurance;

209 (vi) Credit insurance;

210 (vii) Coverage for on-site medical clinics; or

211 (viii) Other similar insurance coverage specified in regulations
212 issued pursuant to the Health Insurance Portability and Accountability
213 Act of 1996, P.L. 104-191, as amended from time to time, under which
214 benefits for health care services are secondary or incidental to other
215 insurance benefits.

216 (C) "Health benefit plan" does not include the following benefits if
217 they are provided under a separate insurance policy, certificate or
218 contract or are otherwise not an integral part of the plan:

- 219 (i) Limited scope dental or vision benefits;
- 220 (ii) Benefits for long-term care, nursing home care, home health
221 care, community-based care or any combination thereof; or
- 222 (iii) Other similar, limited benefits specified in regulations issued
223 pursuant to the Health Insurance Portability and Accountability Act of
224 1996, P.L. 104-191, as amended from time to time;
- 225 (iv) Other supplemental coverage, similar to coverage of the type
226 specified in subdivisions (9) and (14) of section 38a-469, provided
227 under a group health plan.
- 228 (D) "Health benefit plan" does not include coverage of the type
229 specified in subdivisions (3) and (13) of section 38a-469 or other fixed
230 indemnity insurance if (i) such coverage is provided under a separate
231 insurance policy, certificate or contract, (ii) there is no coordination
232 between the provision of the benefits and any exclusion of benefits
233 under any group health plan maintained by the same plan sponsor,
234 and (iii) the benefits are paid with respect to an event without regard
235 to whether benefits were also provided under any group health plan
236 maintained by the same plan sponsor;
- 237 (6) "Health care services" has the same meaning as provided in
238 section 38a-478;
- 239 (7) "Health carrier" means an insurance company, fraternal benefit
240 society, hospital service corporation, medical service corporation,
241 health care center or other entity subject to the insurance laws and
242 regulations of the state or the jurisdiction of the commissioner that
243 contracts or offers to contract to provide, deliver, pay for or reimburse
244 any of the costs of health care services;
- 245 (8) "Internal Revenue Code" means the Internal Revenue Code of
246 1986, or any subsequent corresponding internal revenue code of the
247 United States, as amended from time to time;

- 248 (9) "Person" has the same meaning as provided in section 38a-1;
- 249 (10) "Qualified dental plan" means a limited scope dental plan that
 250 has been certified in accordance with subsection (e) of section 38a-1086;
- 251 (11) "Qualified employer" has the same meaning as provided in
 252 Section 1312 of the Affordable Care Act;
- 253 (12) "Qualified health plan" means a health benefit plan that has in
 254 effect a certification that the plan meets the criteria for certification
 255 described in Section 1311(c) of the Affordable Care Act and section
 256 38a-1086;
- 257 (13) "Qualified individual" has the same meaning as provided in
 258 Section 1312 of the Affordable Care Act;
- 259 (14) "Secretary" means the Secretary of the United States
 260 Department of Health and Human Services;
- 261 (15) "Small employer" has the same meaning as provided in section
 262 38a-564.

263 Sec. 4. (*Effective from passage*) The board of directors of the
 264 Connecticut Health Insurance Exchange established under section 38a-
 265 1081 of the general statutes shall examine its long-term plan for self-
 266 sustainability and submit a report not later than January 1, 2017, to the
 267 joint standing committees of the General Assembly having cognizance
 268 of matters relating to insurance and public health, in accordance with
 269 the provisions of section 11-4a of the general statutes, summarizing
 270 such plan and including an evaluation of its success in meeting its
 271 goals for self-sustainability."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	38a-1083(a) to (c)
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	38a-1080

Sec. 4	<i>from passage</i>	New section
--------	---------------------	-------------