



General Assembly

Amendment

January Session, 2015

LCO No. 8991



Offered by:
SEN. KELLY, 21st Dist.

To: House Bill No. 6771

File No. 175

Cal. No. 437

"AN ACT AUTHORIZING NONADMITTED INSURERS TO OPEN AN OFFICE IN THIS STATE."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 38a-1083 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective from passage*):

5 (a) For purposes of sections 38a-1080 to [38a-1091] 38a-1092,
6 inclusive, as amended by this act, and section 502 of this act "purposes
7 of the exchange" means the purposes of and the pursuit of the goals of
8 the exchange expressed in and pursuant to this section and the
9 performance of the duties and responsibilities of the exchange set forth
10 in sections 38a-1084 to 38a-1092, inclusive, which are hereby
11 determined to be public purposes for which public funds may be
12 expended. The powers enumerated in this section shall be interpreted
13 broadly to effectuate the purposes of the exchange and shall not be
14 construed as a limitation of powers.

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

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

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

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

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

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

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

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

40 (7) Charge assessments or user fees to health carriers that are
41 capable of offering a qualified health plan through the exchange or
42 otherwise generate funding necessary to support the operations of the
43 exchange and impose interest and penalties on such health carriers for

44 delinquent payments of such assessments or fees;

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

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

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

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

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

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

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

70 (15) Award grants to trained and certified individuals and
71 institutions that will assist individuals, families and small employers
72 and their employees in enrolling in appropriate coverage through the

73 exchange. Applications for grants from the exchange shall be made on
74 a form prescribed by the board;

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

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

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

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

92 ~~[(18)]~~ (20) Sue and be sued, plead and be impleaded;

93 ~~[(19)]~~ (21) Adopt regular procedures that are not in conflict with
94 other provisions of the general statutes, for exercising the power of the
95 exchange; and

96 ~~[(20)]~~ (22) Do all acts and things necessary and convenient to carry
97 out the purposes of the exchange, provided such acts or things shall
98 not conflict with the provisions of the Affordable Care Act, regulations
99 adopted thereunder or federal guidance issued pursuant to the
100 Affordable Care Act.

101 (d) Prior to changing the amount of an assessment or user fee

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

112 [(d)] (e) (1) The chief executive officer of the exchange shall provide
113 to the commissioner the name of any health carrier that fails to pay any
114 assessment or user fee under subdivision (7) of subsection (c) of this
115 section to the exchange. The commissioner shall see that all laws
116 respecting the authority of the exchange pursuant to said subdivision
117 (7) are faithfully executed. The commissioner has all the powers
118 specifically granted under this title and all further powers that are
119 reasonable and necessary to enable the commissioner to enforce the
120 provisions of said subdivision (7).

121 (2) Any health carrier aggrieved by an administrative action taken
122 by the commissioner under subdivision (1) of this subsection may
123 appeal therefrom in accordance with the provisions of section 4-183,
124 except venue for such appeal shall be in the judicial district of New
125 Britain.

126 Sec. 502. (NEW) (*Effective from passage*) (a) The exchange may
127 establish one or more subsidiaries for such purposes as prescribed by
128 resolution of the board of directors of the exchange, which purposes
129 shall be consistent with the purposes of the exchange. Each subsidiary
130 shall be deemed a quasi-public agency for the purposes of chapter 12
131 of the general statutes and shall have all the privileges, immunities, tax
132 exemptions and other exemptions of the exchange. Any such
133 subsidiary may be organized as a stock or nonstock corporation or a
134 limited liability company.

135 (b) (1) Each subsidiary shall have and may exercise the powers of
136 the exchange and such additional powers as are set forth in such
137 resolution, except the powers of the exchange set forth in subdivisions
138 (7), (12), (15), (16), (17) and (21) of subsection (c) of section 38a-1083 of
139 the general statutes, as amended by this act, shall be reserved to the
140 exchange and shall not be exercisable by any subsidiary of the
141 exchange.

142 (2) Each subsidiary shall include in any contract with any entity a
143 provision that the subsidiary's liability shall be limited solely to the
144 assets, revenues and resources of such subsidiary without recourse to
145 the general funds, revenues or resources or any other assets of the
146 exchange.

147 (3) A subsidiary shall not offer any insurance products other than
148 dental plans and vision plans. Prior to undertaking its initial offering
149 of dental or vision plans through a subsidiary, the board of directors of
150 such subsidiary shall file a proposal for approval of such subsidiary's
151 undertaking with the clerks of the House of Representatives and the
152 Senate. The General Assembly shall vote to approve or reject such
153 proposal within thirty days after the date of filing. If the General
154 Assembly fails to vote to approve or reject such proposal within the
155 thirty-day period, the proposal shall be deemed approved. The thirty-
156 day period shall not begin or expire unless the General Assembly is in
157 regular session. Once the undertaking of the initial offering has been
158 approved, the board shall not be required to file any additional
159 proposals pursuant to this subdivision.

160 (c) (1) Each subsidiary shall act through a board of directors, at least
161 one-half of which shall be members of the board of directors of the
162 exchange or their designees or officers or employees of the exchange.
163 The provisions of subdivision (2) of subsection (b) of section 38a-1081
164 of the general statutes and subdivisions (7) and (9) of subsection (c) of
165 section 38a-1081 of the general statutes shall apply to each member of
166 the board of directors of a subsidiary who is not a member of the board
167 of directors of the exchange, an officer of the exchange or an employee

168 of the exchange.

169 (2) The provisions of section 1-125 of the general statutes shall apply
170 to any member of the board of directors, officer or employee of a
171 subsidiary established under this section. Any such member, officer or
172 employee shall not be personally liable for the debts, obligations or
173 liabilities of any such subsidiary as provided in section 1-125 of the
174 general statutes. Any such subsidiary shall, and the exchange may,
175 save harmless and indemnify any such member, officer or employee as
176 provided in section 1-125 of the general statutes.

177 (d) (1) Each subsidiary to which the exchange makes a loan
178 pursuant to subdivision (19) of subsection (c) of section 38a-1083 of the
179 general statutes, as amended by this act, shall repay such loan from the
180 assets, revenues and resources of such subsidiary.

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

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

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

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

197 Sec. 503. Section 38a-1080 of the general statutes is repealed and the

198 following is substituted in lieu thereof (*Effective from passage*):

199 For purposes of sections 38a-1080 to [38a-1091] 38a-1092, inclusive,
200 and section 502 of this act:

201 (1) "Board" means the board of directors of the Connecticut Health
202 Insurance Exchange;

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

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

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

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

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

215 (i) Coverage of the type specified in subdivisions (5), (6), (7), (8), (9),
216 (14), (15) and (16) of section 38a-469 or any combination thereof;

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

218 (iii) Liability insurance, including general liability insurance and
219 automobile liability insurance;

220 (iv) Workers' compensation insurance;

221 (v) Automobile medical payment insurance;

222 (vi) Credit insurance;

- 223 (vii) Coverage for on-site medical clinics; or
- 224 (viii) Other similar insurance coverage specified in regulations
225 issued pursuant to the Health Insurance Portability and Accountability
226 Act of 1996, P.L. 104-191, as amended from time to time, under which
227 benefits for health care services are secondary or incidental to other
228 insurance benefits.
- 229 (C) "Health benefit plan" does not include the following benefits if
230 they are provided under a separate insurance policy, certificate or
231 contract or are otherwise not an integral part of the plan:
- 232 (i) Limited scope dental or vision benefits;
- 233 (ii) Benefits for long-term care, nursing home care, home health
234 care, community-based care or any combination thereof; or
- 235 (iii) Other similar, limited benefits specified in regulations issued
236 pursuant to the Health Insurance Portability and Accountability Act of
237 1996, P.L. 104-191, as amended from time to time;
- 238 (iv) Other supplemental coverage, similar to coverage of the type
239 specified in subdivisions (9) and (14) of section 38a-469, provided
240 under a group health plan.
- 241 (D) "Health benefit plan" does not include coverage of the type
242 specified in subdivisions (3) and (13) of section 38a-469 or other fixed
243 indemnity insurance if (i) such coverage is provided under a separate
244 insurance policy, certificate or contract, (ii) there is no coordination
245 between the provision of the benefits and any exclusion of benefits
246 under any group health plan maintained by the same plan sponsor,
247 and (iii) the benefits are paid with respect to an event without regard
248 to whether benefits were also provided under any group health plan
249 maintained by the same plan sponsor;
- 250 (6) "Health care services" has the same meaning as provided in
251 section 38a-478;

252 (7) "Health carrier" means an insurance company, fraternal benefit
253 society, hospital service corporation, medical service corporation,
254 health care center or other entity subject to the insurance laws and
255 regulations of the state or the jurisdiction of the commissioner that
256 contracts or offers to contract to provide, deliver, pay for or reimburse
257 any of the costs of health care services;

258 (8) "Internal Revenue Code" means the Internal Revenue Code of
259 1986, or any subsequent corresponding internal revenue code of the
260 United States, as amended from time to time;

261 (9) "Person" has the same meaning as provided in section 38a-1;

262 (10) "Qualified dental plan" means a limited scope dental plan that
263 has been certified in accordance with subsection (e) of section 38a-1086;

264 (11) "Qualified employer" has the same meaning as provided in
265 Section 1312 of the Affordable Care Act;

266 (12) "Qualified health plan" means a health benefit plan that has in
267 effect a certification that the plan meets the criteria for certification
268 described in Section 1311(c) of the Affordable Care Act and section
269 38a-1086;

270 (13) "Qualified individual" has the same meaning as provided in
271 Section 1312 of the Affordable Care Act;

272 (14) "Secretary" means the Secretary of the United States
273 Department of Health and Human Services;

274 (15) "Small employer" has the same meaning as provided in section
275 38a-564.

276 Sec. 504. (*Effective from passage*) The board of directors of the
277 Connecticut Health Insurance Exchange established under section 38a-
278 1081 of the general statutes shall examine its long-term plan for self-
279 sustainability and submit a report not later than January 1, 2017, to the

280 joint standing committees of the General Assembly having cognizance
281 of matters relating to insurance and public health, in accordance with
282 the provisions of section 11-4a of the general statutes, summarizing
283 such plan and including an evaluation of its success in meeting its
284 goals for self-sustainability."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>from passage</i>	38a-1083
Sec. 502	<i>from passage</i>	New section
Sec. 503	<i>from passage</i>	38a-1080
Sec. 504	<i>from passage</i>	New section