

## **Backgrounder: Connecticut Unfair Insurance Practices Act (CUIPA)**

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### **Issue**

This report provides an overview of the Connecticut Unfair Insurance Practices Act (CUIPA), including violations, enforcement methods, and penalties.

### **Summary**

CUIPA, enacted in 1955 and revised numerous times since then, prohibits unfair methods of competition and unfair or deceptive acts or practices in the business of insurance ([CGS § 38a-815](#)). There are two types of CUIPA violations: (1) statutorily defined or *per se* violations and (2) judicially determined violations.

The law authorizes the insurance commissioner to conduct investigations and hearings, issue cease and desist orders, impose fines, revoke or suspend licenses, and order restitution for *per se* CUIPA violations ([CGS § 38a-817](#)). It authorizes her to bring other violations to court for judicial determination. If she believes a person in the business of insurance is engaging in an unfair method of competition or unfair act or practice not specifically defined in [CGS § 38a-816](#), she may hold a hearing and, upon finding a violation, ask the attorney general to seek injunctive relief in Superior Court ([CGS § 38a-818](#)).

## **Per Se Violations**

### ***Violations***

*Per se* violations are specific actions prohibited by law and deemed to violate CUIPA ([CGS § 38a-815 et seq.](#)). CUIPA lists actions that constitute unfair methods of competition and unfair or deceptive acts or practices in the business of insurance ([CGS § 38a-816](#)). For example, a person violates CUIPA if he or she (1) makes false statements on an insurance application ([CGS § 38a-816 \(7\)](#)) or (2) fails to pay accident and health claims within required time periods ([CGS § 38a-816 \(15\)](#)).

Other statutes outside of the CUIPA statutes also identify actions that are deemed to violate CUIPA. For example, it is a CUIPA violation to fail to provide the required notices concerning (1) parts used to repair a damaged vehicle ([CGS § 38a-355](#)) or (2) life settlement contracts ([CGS § 38a-465f](#)).

For a list of statutory *per se* CUIPA violations, see Attachment 1.

### ***Hearings***

When the commissioner has reason to believe that a person has committed a CUIPA *per se* violation and she finds it is in the public interest to investigate, she must issue the person a statement of the charges and hold a hearing ([CGS § 38a-817\(a\)](#)). At the hearing, she must give the person the opportunity to explain why she should not issue a cease and desist order. The law authorizes the commissioner to subpoena witnesses, administer oaths, examine and cross examine witnesses, and receive oral and written evidence. She may also require the production of books and records relevant to the inquiry.

If anyone fails to comply with a subpoena or testify, the commissioner may apply to the Superior Court for an order requiring the person's compliance. A person who does not obey the court's order may be found in contempt of court.

### ***Orders and Penalties***

If, after a hearing, the commissioner determines a person has committed a CUIPA violation, she must issue her findings in writing, along with a cease and desist order ([CGS § 38a-817\(b\)](#)). If the violation is one listed in [CGS § 38a-816](#), she may also order any of the following:

1. a fine of up to \$5,000 per violation up to \$50,000 total or, if the violation was knowingly committed, up to \$25,000 per violation up to \$250,000 total in any six month period;

2. suspension or revocation of the person's license if the person knew or should have reasonably known he or she was violating CUIPA; or
3. restitution of any sums obtained in violation of CUIPA.

A person aggrieved by the commissioner's order may appeal to the New Britain Superior Court ([CGS § 38a-817\(c\)](#)).

A person who violates a commissioner's cease and desist order, after notice and hearing, is subject to a fine of up to \$50,000 for each violation or suspension or revocation of the person's license ([CGS § 38a-817\(e\)](#)).

## **Judicially Determined Violations**

Whenever the insurance commissioner has reason to believe that a person in the business of insurance is engaging in an unfair method of competition or any unfair act or practice not defined in [CGS § 38a-816](#) and she finds it is in the public interest to investigate, she may issue the person a statement of the charges and hold a hearing ([CGS § 38a-818](#)). The commissioner must conduct the hearing in the same manner as for a *per se* violation under [CGS § 38a-817](#).

After the hearing, the commissioner must provide the person with a written report of her findings. If she finds a CUIPA violation, she may, through the attorney general, petition the Superior Court to order the person to stop engaging in the unfair method, act, or practice. The court must issue an injunction if it determines that the method, act, or practice complained of, is unfair; the commissioner's proceeding is in the public interest; and her findings are supported by the evidence.

### Attachment 1: Per Se CUIPA Violations

Citation (§)	Public Act	General Description
<a href="#">38a-355</a>	87-334	Failing to provide the required notice about parts used to repair a damaged motor vehicle
<a href="#">38a-465f</a>	<a href="#">08-175</a>	Failing to provide the required disclosures about life settlement contracts
<a href="#">38a-567</a>	<a href="#">92-125</a>	Violating the required provisions of small employer plans and arrangements
<a href="#">38a-716</a>	82-59	Failing to follow the required procedure to cancel an insurance policy for which the producer advanced a premium payment for the insured
<a href="#">38a-815</a>	55-365	Committing a practice that is an unfair method of competition or an unfair or deceptive act or practice in the business of insurance as defined in <a href="#">38a-816</a> or determined through a hearing pursuant to <a href="#">38a-817</a> or <a href="#">38a-818</a>
<a href="#">38a-816 (1)</a>	55-365, as amended by <a href="#">05-61</a>	Misrepresenting and falsely advertising insurance policies, including intentionally misquoting a premium rate to induce the surrender or purchase of a policy
<a href="#">38a-816 (2)</a>	55-365	Making false, deceptive, or misleading representations about insurance or people in the business of insurance
<a href="#">38a-816 (3)</a>	55-365	Defaming an insurer to injure a person in the business of insurance
<a href="#">38a-816 (4)</a>	55-365	Conducting a boycott, coercion, or intimidation to restrain trade or create a monopoly in the business of insurance
<a href="#">38a-816 (5)</a>	55-365	Filing or publishing false financial statements
<a href="#">38a-816 (6)</a>	73-73, as amended by 79-318	Committing as a general business practice any of the unfair claim settlement practices specified, including not conducting a reasonable investigation based on available information, among others
<a href="#">38a-816 (7)</a>	73-73	Failing to maintain complaint handling procedures and records
<a href="#">38a-816 (8)</a>	73-73	Making false or fraudulent statements in an insurance application
<a href="#">38a-816 (9)</a>	55-365, as amended by 82-353	Performing any of a number of specified prohibited practices, including discriminating between insureds in a similar class when issuing life insurance or charging rates; offering premium rebates; misrepresenting benefits to induce a change in insurance; publishing a false statement of assets; not using the most recently filed financial information in advertisements; and cancelling, not issuing, or not renewing auto insurance policies for reasons specified in <a href="#">38a-358</a> , including for discriminatory purposes
<a href="#">38a-816 (10)</a>	67-852	Failing to reimburse health care providers because of unfair discrimination
<a href="#">38a-816 (11)</a>	73-73	Requiring a debtor to use a particular insurer or producer; coercing debtors
<a href="#">38a-816 (12)</a>	80-259, as amended by <a href="#">11-163</a> and <a href="#">13-139</a>	Refusing to insure, limiting coverage for, or charging a different rate for the same coverage to, a person diagnosed with a physical disability, intellectual disability, or mental or nervous condition
<a href="#">38a-816 (13)</a>	79-310, as amended by 86-70	Refusing to insure, limiting coverage for, or charging a different rate for the same coverage to, a person because of blindness or partial blindness

Attachment 1 (continued)

<b>Citation (§)</b>	<b>Public Act</b>	<b>General Description</b>
<a href="#">38a-816 (14)</a>	84-189	Refusing to insure, limiting coverage for, or charging a different rate for the same coverage to, a person exposed to diethylstilbestrol
<a href="#">38a-816 (15)</a>	86-407	Failing to pay accident and health claims within required time periods
<a href="#">38a-816 (16)</a>	87-16	Failing to include in the settlement of a totaled motor vehicle the applicable sales tax amount on the settlement
<a href="#">38a-816 (17)</a>	<a href="#">94-86</a>	Violating the requirements for extended warranties
<a href="#">38a-816 (18)</a>	<a href="#">95-193</a>	Refusing to insure, limiting coverage for, or charging a different rate for the same coverage to, a person who is a victim of family violence
<a href="#">38a-816 (19)</a>	<a href="#">97-95</a>	Refusing to insure, limiting coverage for, or charging a different rate for the same coverage to, a person because of his or her genetic information
<a href="#">38a-816 (20)</a>	<a href="#">97-202</a> , as amended by <a href="#">08-175</a>	Violating the requirements for life settlement contracts (previously for viatical settlements)
<a href="#">38a-816 (21)</a>	<a href="#">99-284</a>	Failure by a managed care organization to establish a confidentiality procedure for medical record information
<a href="#">38a-816 (22)</a>	<a href="#">05-97</a> , as amended by <a href="#">11-58</a>	Violating the requirements for utilization review, benefit determinations, and grievances (previously for violating grievance requirements)
<a href="#">38a-852</a>	<a href="#">92-60</a>	Using the protections of the state guaranty funds when soliciting, negotiating, procuring, or effecting insurance
<a href="#">38a-871</a>	<a href="#">92-60</a>	Using the protections of the state guaranty funds when soliciting, negotiating, procuring, or effecting insurance
<a href="#">42-494</a>	<a href="#">10-59</a>	Violating the law concerning contracts between health care providers and certain contracting entities
TBD	<a href="#">17-187</a>	Violating the law regulating the offer and dissemination of travel insurance (effective October 1, 2017)

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