House of Representatives

General Assembly

File No. 301

January Session, 2019

House Bill No. 7269

House of Representatives, April 2, 2019

The Committee on Insurance and Real Estate reported through REP. SCANLON of the 98th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL AND OTHER CHANGES TO THE INSURANCE AND RELATED STATUTES.

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

Section 1. Subdivision (2) of subsection (a) of section 8-446 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

(2) Funding a program, and any related administrative expense, to reduce health and safety hazards in residential dwellings in Connecticut, including, but not limited to, lead, radon and other contaminants or conditions, through removal, remediation, abatement and other appropriate methods. For purposes of this subdivision, "administrative expense" means any administrative or other cost or expense incurred by the Department of Housing in carrying out the provisions of this section, including, but not limited to, the hiring of necessary employees and entering into necessary contracts.

Sec. 2. Subdivision (2) of subsection (a) of section 38a-183 of the general statutes, as amended by section 7 of public act 18-41, is repealed and the following is substituted in lieu thereof (*Effective January 1, 2020*):

(2) Premium rates and special enrollment periods offered to individuals shall be consistent with the requirements set forth in section 38a-481.

Sec. 3. Section 38a-343a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

(a) (1) The Commissioner of Motor Vehicles may require each insurer that issues policies in this state to notify said commissioner monthly, on a date specified by said commissioner, of [the cancellation or issuance and addition] all additions, cancellations and issuances by the insurer of [all] such policies that occurred during the preceding month. Such notice shall include the name of the named insured in [the] each policy, the policy number of each policy, the vehicle identification number of each automobile covered by [the] each policy and the effective date of [the] each policy's [cancellation or issuance or] addition, cancellation or issuance. Said commissioner shall specify an acceptable method of notification. The method of notification specified may include computer tapes or electronic transmission.

(2) Said commissioner may require each insurer that issues policies in this state to provide monthly, on a date specified by said commissioner, the policy information required for purposes of the Online Insurance Verification System, as provided in section 14-112a.

(3) The failure of an insurer to comply with the requirements of this section shall not affect the cancellation or issuance of any policy.

(b) The Commissioner of Motor Vehicles shall receive or accept all notices of policy addition, cancellation [or] and issuance [or addition] or all policy information from insurers, as required pursuant to subsection (a) of this section. Said commissioner shall review and analyze the **[**cancellation or issuance and addition**]** <u>addition, cancellation and issuance</u> data or policy information submitted, together with such other information as said commissioner may obtain from the insurers, from the records of the Department of Motor Vehicles, or from any other public or private agency or firm in possession of relevant information, for the purpose of determining whether any registered owner identified in any such notice has failed to continuously maintain insurance coverage in violation of sections 14-12c and 38a-371. In conducting such an inquiry to determine insured status, said commissioner may contact registered vehicle owners by mail and require that such mail inquiries be answered in not less than thirty days, in a satisfactory manner containing such information and verification of insurance coverage as said commissioner deems necessary and acceptable.

Sec. 4. Subsection (b) of section 38a-401 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

(b) Except as otherwise expressly provided in sections 38a-400 to 38a-425, inclusive, and except where the context otherwise requires, all provisions of <u>this</u> title **[**38a**]** applicable to insurance and insurance companies generally shall apply to title insurance and title insurance companies.

Sec. 5. Subdivision (2) of subsection (f) of section 38a-860 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

(2) Sections 38a-858 to 38a-875, inclusive, shall not provide coverage for: (A) Any portion of a policy or contract not guaranteed by the insurer, or under which the risk is borne by the policy or contract holder; (B) any policy or contract of reinsurance, unless assumption certificates have been issued; (C) except as set forth in subdivision (3) of this subsection, any portion of a policy or contract to the extent that the rate of interest on which it is based or the interest rate, crediting rate or similar factor determined by use of an index or other external

reference stated in the policy or contract employed in calculating returns or changes in value (i) averaged over the period of four years prior to the date on which the member insurer becomes an impaired or insolvent insurer under sections 38a-858 to 38a-875, inclusive, exceeds the rate of interest determined by subtracting two percentage points from Moody's corporate bond yield average averaged for that same four-year period or for such lesser period if the policy or contract was issued less than four years before the member insurer becomes an impaired or insolvent insurer under sections 38a-858 to 38a-875, inclusive, whichever is earlier, and (ii) on and after the date on which the member insurer becomes an impaired or insolvent insurer under sections 38a-858 to 38a-875, inclusive, whichever is earlier, exceeds the rate of interest determined by subtracting three percentage points from Moody's corporate bond yield average as most recently available; (D) a portion of a policy or contract issued to any plan or program of an employer, association or similar entity to provide life, health or annuity benefits to its employees or members to the extent that such plan or program is self-funded or uninsured, including, but not limited to, benefits payable by an employer, association or similar entity under (i) a multiple employer welfare arrangement as defined in Section 514 of the federal Employee Retirement Income Security Act of 1974, as amended from time to time, (ii) a minimum premium group insurance plan, or (iii) an administrative services only contract; (E) any stop-loss or excess loss insurance policy or contract providing for the indemnification of or payment to a policy owner, a contract owner, a plan or another person obligated to pay life, health or annuity benefits; (F) any portion of a policy or contract to the extent that it provides dividends, experience rating credits, voting rights or provides that any fees or allowances be paid to any person, including, but not limited to, the policy or contract holder, in connection with the service to or administration of such policy or contract; (G) any policy or contract issued in this state by a member insurer at a time when it was not licensed or did not have a certificate of authority to issue such policy or contract in this state; (H) any unallocated annuity contract issued to an employee benefit plan protected under the federal Pension Benefit

Guaranty Corporation, regardless of whether the federal Pension Benefit Guaranty Corporation has yet become liable to make any payments with respect to the benefit plan; (I) any portion of an unallocated annuity contract that is not issued to, or in connection with a specific employee, union or association of natural persons benefit plan or a government lottery; (J) a portion of a policy or contract to the extent that the assessments required by section 38a-866 with respect to the policy or contract are preempted by federal or state law; (K) a contractual agreement that establishes the insurer's obligation by reference to a portfolio of assets that is not owned or possessed by the insurance company; (L) an obligation that does not arise under the express written terms of the policy or contract issued by the member insurer to the enrollee, certificate holder, contract owner or policy owner, including, but not limited to, (i) a claim based on marketing materials, (ii) a claim based on side letters, riders or other documents that were issued by the member insurer without meeting applicable policy <u>or</u> contract form filing or approval requirements, (iii) a misrepresentation of or regarding policy or contract benefits, (iv) an extra-contractual claim, or (v) a claim for penalties or consequential or incidental damages; (M) a contractual agreement that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer; (N) a portion of a policy or contract to the extent it provides for interest or other changes in value to be determined by the use of an index or other external reference stated in the policy or contract, but that have not been credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under sections 38a-858 to 38a-875, inclusive, whichever is earlier. If a policy's or contract's interest or changes in value are credited less frequently than annually, then for purposes of determining the values that have been credited and are not subject to forfeiture under this subparagraph, the interest or change in value determined by using the procedures defined in the policy or contract shall be credited as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and shall not be subject to forfeiture; (O) structured settlement annuity benefits to which a payee or beneficiary has transferred the payee's or beneficiary's rights in a structured settlement factoring transaction as defined in 26 USC 5891(c)(3)(A), regardless of whether the transaction occurred before or after said section became effective; and (P) any policy or contract providing hospital, medical, prescription drugs or other health care benefits pursuant to Part C, 42 USC 1395w21 et seq., Part D, 42 USC 1395w101 et seq., or 42 USC Chapter 7, Subchapter XIX, as said parts and subchapter may be amended from time to time, or any regulations issued thereunder.

Sec. 6. Subsection (g) of section 38a-860 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

(g) The benefits for which the association may become liable shall in no event exceed the lesser of: (1) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired insurer, or (2) (A) with respect to any one life, regardless of the number of policies or contracts: (i) Five hundred thousand dollars in life insurance death benefits, but no more than five hundred thousand dollars in net cash surrender and net cash withdrawal values for life insurance; (ii) five hundred thousand dollars in health insurance benefits, including, but not limited to, any net cash surrender and net cash withdrawal values; (iii) five hundred thousand dollars in the present value of annuity benefits, including, but not limited to, net cash surrender and net cash withdrawal values; (B) with respect to each individual participating in a governmental retirement plan established under Section 401, 403(b) or 457 of the United States Internal Revenue Code of 1986, or any subsequent internal revenue code of the United States, as amended from time to time, covered by an unallocated annuity contract or the beneficiaries of each such individual if deceased, in the aggregate, five hundred thousand dollars in present value annuity benefits, including, but not limited to, net cash surrender and net cash withdrawal values; (C) with respect to each payee of a structured settlement annuity, or beneficiary or beneficiaries of the payee if deceased, five hundred thousand dollars in present value annuity benefits, in the aggregate, including, but not limited to, net cash surrender and net cash withdrawal values, if any, provided in no event shall the association be liable to expend (i) more than the five hundred thousand dollars in the aggregate with respect to any one individual under subparagraphs (A), (B) and (C) of this subdivision, and (ii) with respect to one owner of multiple nongroup policies of life insurance, whether the policy or contract owner is an individual, firm, corporation or other person, and whether the persons insured are officers, managers, employees or other persons, more than five million dollars in benefits, regardless of the number of policies and contracts held by the owner; <u>and</u> (D) with respect to either (i) one contract owner provided coverage under subdivision (2) of subsection (b) of this section, or (ii) one plan sponsor whose plans own directly or in trust one or more unallocated annuity contracts not included in subparagraph (B) of subdivision (2) of this subsection, five million dollars in benefits regardless of the number of contracts with respect to the contract owner or plan sponsor, except that in the case where one or more unallocated annuity contracts are covered contracts under sections 38a-858 to 38a-875, inclusive, and are owned by a trust or other entity for the benefit of two or more plan sponsors, coverage shall be afforded by the association if the largest interest in the trust or entity owning the contract or contracts is held by a plan sponsor whose principal place of business is in this state and in no event shall the association be obligated to cover more than five million dollars in benefits with respect to all such unallocated contracts<u>.</u> **[**; and (E) the**]** <u>The</u> limits set forth in this subsection are limits on the benefits for which the association is obligated before taking into account either the association's subrogation and assignment rights or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer that are attributable to covered policies. The costs of the association's obligations under sections 38a-858 to 38a-875, inclusive, may be met by the use of assets attributable to covered policies or reimbursed to the association pursuant to the association's subrogation and assignment rights.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2019*	8-446(a)(2)
Sec. 2	*January 1, 2020*	38a-183(a)(2)
Sec. 3	*October 1, 2019*	38a-343a
Sec. 4	*October 1, 2019*	38a-401(b)
Sec. 5	*October 1, 2019*	38a-860(f)(2)
Sec. 6	*October 1, 2019*	38a-860(g)

INS *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes technical and conforming changes and has no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

HB 7269

AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL AND OTHER CHANGES TO THE INSURANCE AND RELATED STATUTES.

SUMMARY

This bill makes technical and conforming changes to insurance and related statutes.

Among its changes, the bill resolves a conflict between two public acts passed in 2018: PA 18-41 and PA 18-43. It inserts a reference to special enrollment periods in PA 18-41, which takes effect January 1, 2020, to conform to a change adopted in PA 18-43, which took effect January 1, 2019.

EFFECTIVE DATE: October 1, 2019, except the conforming change concerning special enrollment periods is effective January 1, 2020.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable				
Yea	19	Nay	0	(03/14/2019)