



General Assembly

January Session, 2023

**Raised Bill No. 6710**

LCO No. 3657



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:  
(INS)

**AN ACT CONCERNING ASSOCIATION HEALTH PLANS.**

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

1 Section 1. (NEW) (*Effective October 1, 2023*) (a) For the purposes of this  
2 section and sections 2 and 3 of this act:

3 (1) "Commissioner" means the Insurance Commissioner;

4 (2) "Fully insured multiple employer welfare arrangement" means  
5 any health benefit plan offered by a sponsoring association for the  
6 purpose of providing insurance to participating employees of a  
7 sponsoring association that is funded through a policy of insurance  
8 issued by a licensed insurance company in this state;

9 (3) "Self-funded multiple employer welfare arrangement" means any  
10 health benefit plan offered by a sponsoring association, that is not fully  
11 insured by a licensed insurance company in this state, for the purpose  
12 of providing insurance to participating employer members of a  
13 sponsoring association;

14 (4) "ERISA" means the Employee Retirement Income Security Act of

15 1974, as amended from time to time;

16 (5) "Employer member" means an entity in this state that is part of a  
17 sponsoring association, conducts business in this state and employs  
18 individuals in this state;

19 (6) "Preexisting conditions provision" has the same meaning as  
20 provided in section 38a-476 of the general statutes; and

21 (7) "Sponsoring association" means any industry trade group or any  
22 other trade group with employer members representing multiple trades  
23 incorporated in this state that (A) is organized and has a written  
24 constitution or bylaws, (B) has not less than fifty employer members,  
25 and (C) has been maintained in good faith for not less than the  
26 immediately preceding five years for purposes other than obtaining or  
27 providing insurance.

28 Sec. 2. (NEW) (*Effective October 1, 2023*) (a) No self-funded multiple  
29 employer welfare arrangement shall issue any health benefit plan in this  
30 state unless such self-funded multiple employer welfare arrangement  
31 first obtains a license from the commissioner.

32 (b) Any health benefit plan issued by a self-funded multiple  
33 employer welfare arrangement that covers one or more employees of  
34 one or more participating employer members of a sponsoring  
35 association shall:

36 (1) Provide coverage for (A) essential health benefits as defined in the  
37 Patient Protection and Affordable Care Act, P.L. 111-148, as amended  
38 from time to time, or regulations adopted thereunder, and (B) the state  
39 mandated coverage requirements under chapter 700c of the general  
40 statutes;

41 (2) Offer a minimum level of coverage designed to provide health  
42 benefits that are actuarially equivalent to not less than sixty per cent of  
43 the full actuarial value of the benefits provided under the health benefit  
44 plan and include coverage for inpatient hospital services and physician

45 services;

46 (3) Not limit or exclude coverage for any individual by imposing any  
47 preexisting conditions provision on such individual;

48 (4) Not establish discriminatory rules based on the health status of an  
49 individual related to health benefit plan eligibility, or premium or  
50 contribution requirements;

51 (5) Establish base rates formed on an actuarially sound, modified  
52 community rating methodology that considers the pooling of all  
53 participants' claims; and

54 (6) Utilize each employer member's risk profile to determine  
55 premiums by actuarially adjusting above or below established base  
56 rates, and utilize pooling or reinsurance of individual large claimants to  
57 reduce the adverse impact on any specific employer member's  
58 premiums.

59 (c) Any sponsoring association shall form a trust that shall establish  
60 and maintain any health benefit plans for such sponsoring association.  
61 Such trust shall be authorized to sell health benefit plans to employer  
62 members of the sponsoring association by meeting the following  
63 conditions:

64 (1) The trust shall be subject to ERISA and any regulations or  
65 standards prescribed by the United States Department of Labor to  
66 enforce multiple employer welfare arrangements;

67 (2) A Form M-1 shall be filed each year with the United States  
68 Department of Labor. For purposes of this subdivision, "Form M-1"  
69 means an annual report required by the United States Department of  
70 Labor for multiple employer welfare arrangements that includes, but is  
71 not limited to, the following: (A) Identification of the sponsoring  
72 association and trust establishing a self-funded multiple employer  
73 welfare arrangement; and (B) a description of any health benefit plans  
74 offered through the trust as a self-funded multiple employer welfare

75 arrangement;

76 (3) Any organizational documents for a trust shall:

77 (A) State that such trust is sponsored by the sponsoring association;

78 (B) State that the purpose of such trust is to provide health care  
79 benefits, including, but not limited to, medical, prescription drug, dental  
80 and vision benefits, to participating employees of the sponsoring  
81 association or its members, and the dependents of such participating  
82 employees or members, through health benefit plans;

83 (C) Provide that trust funds shall be used for the benefit of  
84 participating employees of the sponsoring association and the  
85 dependents of such participating employees, through (i) self-funding of  
86 claims or the purchase of reinsurance, or any combination thereof, and  
87 (ii) defraying the costs and expenses of administering and operating  
88 such trust and any health benefit plan;

89 (D) Limit participation in any health benefit plan to participating  
90 employees of the sponsoring association and such sponsoring  
91 association's employer members;

92 (E) Establish and maintain a board of trustees, composed of not less  
93 than five trustees, that shall have fiscal control over such self-funded  
94 multiple employer welfare arrangement. Any board of trustees shall  
95 have the authority to (i) approve applications of association employer  
96 members for participation in the self-funded multiple employer welfare  
97 arrangement, and (ii) contract with any licensed administrator or service  
98 company to administer the daily operations of the self-funded multiple  
99 employer welfare arrangement;

100 (F) Implement a process for the election of trustees to the board of  
101 trustees; and

102 (G) Require each trustee to discharge such trustee's duties in  
103 accordance with generally accepted fiduciary standards, as determined  
104 by the commissioner, in accordance with the provisions of chapter 54 of

105 the general statutes;

106 (4) The trust shall establish and maintain reserves calculated in  
107 accordance with the accounting requirements of the National  
108 Association of Insurance Commissioners Accounting Practices and  
109 Procedures Manual, version effective January 1, 2001, and subsequent  
110 revisions, and in accordance with any financial and solvency  
111 regulations adopted by the commissioner, in accordance with the  
112 provisions of chapter 54 of the general statutes;

113 (5) The trust shall purchase and maintain an insurance policy  
114 providing coverage for stop-loss insurance with retention levels  
115 determined in accordance with actuarial principles from insurers  
116 licensed to transact the business of insurance in this state;

117 (6) The trust shall purchase and maintain commercially reasonable  
118 fiduciary liability insurance from insurers licensed to transact the  
119 business of insurance in this state;

120 (7) The trust shall purchase and maintain a bond in an amount and  
121 form approved by the commissioner; and

122 (8) No trust shall include in its name, the words "insurance",  
123 "insurer", "underwriter", "mutual", or any other word or term or  
124 combination of words or terms that is descriptive of an insurance  
125 company or insurance business, unless the context of such words or  
126 terms indicate that such trust is not an insurance company and is not  
127 transacting the business of insurance.

128 (d) Any board of trustees established pursuant to subsection (c) of  
129 this section shall:

130 (1) Operate any health benefit plans in accordance with generally  
131 accepted fiduciary standards, as established in regulations adopted by  
132 the commissioner, in accordance with the provisions of chapter 54 of the  
133 general statutes; and

134 (2) Have the authority to collect special assessments against employer

135 members and enforce the collection of such special assessments.

136 (e) Each employer member shall be liable for such employer  
137 member's allocated share of the liabilities of the sponsoring association  
138 under any health benefit plan, as determined by the board of trustees.

139 (f) Health benefit plan documents issued by any such self-funded  
140 multiple employer welfare arrangement shall have the following  
141 statement printed on the first page in fourteen-point boldface type: "This  
142 coverage is not insurance and is not offered through an insurance  
143 company. This coverage is not required to comply with certain federal  
144 market requirements for health insurance, and is not required to comply  
145 with certain state laws for health insurance. Each member shall be liable  
146 for such member's allocated share of the liabilities of the sponsoring  
147 association under the health benefit plans as determined by the board  
148 of trustees. Each member may be responsible for paying an additional  
149 sum if the annual premiums present a deficit of funds for the trust. The  
150 trust's financial documents shall be made available upon request by a  
151 participant in the health benefit plan".

152 (g) This section shall not apply to any fully insured multiple  
153 employer welfare arrangement that offers or provides any health benefit  
154 plan that is fully insured by any insurer authorized to transact the  
155 business of insurance in this state.

156 (h) The commissioner shall adopt regulations, in accordance with the  
157 provisions of chapter 54 of the general statutes, to implement the  
158 provisions of this section, including, but not limited to, the requirements  
159 of self-funded multiple employer welfare arrangements for: (1)  
160 Licensing; (2) financial condition and actuarial standards; (3) solvency  
161 and insolvency, including, but not limited to, the use of trust deposits  
162 and security bonds; (4) transparency and reporting; and (5) filings.

163 Sec. 3. (NEW) (*Effective October 1, 2023*) (a) Any sponsoring  
164 association that sponsors any fully insured multiple employer welfare  
165 arrangement shall have a written constitution and bylaws that require:

166 (1) The sponsoring association to hold regular meetings not less than  
167 once annually to further the purposes of such sponsoring association's  
168 participating employers; and

169 (2) The sponsoring association to collect dues or solicit contributions  
170 from such sponsoring association's participating employers.

171 (b) Any health benefit plan issued by any fully insured multiple  
172 employer welfare arrangement shall:

173 (1) Comply with regulations or standards prescribed by the United  
174 States Department of Labor pertaining to multiple employer welfare  
175 arrangements;

176 (2) Qualify as a large group market plan subject to (A) all coverage  
177 mandates under chapter 700c of the general statutes applicable to a large  
178 group market plan offered in this state, and (B) the large group market  
179 insurance regulations pursuant to the Public Health Service Act, 42 USC  
180 2791, as amended from time to time;

181 (3) Adhere to the group health plan coverage requirements under the  
182 Patient Protection and Affordable Care Act, P.L. 111-148, as amended  
183 from time to time;

184 (4) Not limit or exclude coverage for any individual by imposing any  
185 preexisting conditions provision on such individual;

186 (5) Provide coverage for (A) essential health benefits as defined in the  
187 Patient Protection and Affordable Care Act, P.L. 111-148, as amended  
188 from time to time, or regulations adopted thereunder, and (B) the state  
189 mandated coverage requirements under chapter 700c of the general  
190 statutes;

191 (6) Offer a minimum level of coverage designed to provide benefits  
192 that are actuarially equivalent to not less than sixty per cent of the full  
193 actuarial value of the benefits provided under the health benefit plan;  
194 and

195 (7) Be available only to participating employers of the fully insured  
196 multiple employer welfare arrangement.

197 Sec. 4. Section 38a-567 of the general statutes is repealed and the  
198 following is substituted in lieu thereof (*Effective October 1, 2023*):

199 Health insurance plans [, associations of small employers] and other  
200 insurance arrangements covering small employers and insurers and  
201 producers marketing such plans and arrangements shall be subject to  
202 the following provisions:

203 (1) (A) Any such plan or arrangement shall be offered on a  
204 guaranteed issue basis with respect to all eligible employees or  
205 dependents of such employees, at the option of the small employer,  
206 policyholder or contractholder, as the case may be.

207 (B) Any such plan or arrangement shall be renewable with respect to  
208 all eligible employees or dependents at the option of the small employer,  
209 policyholder or contractholder, as the case may be, except: (i) For  
210 nonpayment of the required premiums by the small employer,  
211 policyholder or contractholder; (ii) for fraud or misrepresentation of the  
212 small employer, policyholder or contractholder or, with respect to  
213 coverage of individual insured, the insureds or their representatives;  
214 (iii) for noncompliance with plan or arrangement provisions; (iv) when  
215 the number of insureds covered under the plan or arrangement is less  
216 than the number of insureds or percentage of insureds required by  
217 participation requirements under the plan or arrangement; or (v) when  
218 the small employer, policyholder or contractholder is no longer actively  
219 engaged in the business in which it was engaged on the effective date of  
220 the plan or arrangement.

221 (C) Renewability of coverage may be effected by either continuing in  
222 effect a plan or arrangement covering a small employer or by  
223 substituting upon renewal for the prior plan or arrangement the plan or  
224 arrangement then offered by the carrier that most closely corresponds  
225 to the prior plan or arrangement and is available to other small  
226 employers. Such substitution shall only be made under conditions



227 approved by the commissioner. A carrier may substitute a plan or  
228 arrangement as set forth in this subparagraph only if the carrier effects  
229 the same substitution upon renewal for all small employers previously  
230 covered under the particular plan or arrangement, unless otherwise  
231 approved by the commissioner. The substitute plan or arrangement  
232 shall be subject to the rating restrictions specified in this section on the  
233 same basis as if no substitution had occurred, except for an adjustment  
234 based on coverage differences.

235 (D) Any such plan or arrangement shall provide special enrollment  
236 periods (i) to all eligible employees or dependents as set forth in 45 CFR  
237 147.104, as amended from time to time, and (ii) for coverage under such  
238 plan or arrangement ordered by a court for a spouse or minor child of  
239 an eligible employee where request for enrollment is made not later than  
240 thirty days after the issuance of such court order.

241 (2) (A) As used in this subdivision, "grandfathered plan" has the same  
242 meaning as "grandfathered health plan" as provided in the Patient  
243 Protection and Affordable Care Act, P.L. 111-148, as amended from time  
244 to time.

245 (B) With respect to grandfathered plans issued to small employers,  
246 the premium rates charged or offered shall be established on the basis  
247 of a single pool of all grandfathered plans, adjusted to reflect one or  
248 more of the following classifications:

249 (i) Age, provided age brackets of less than five years shall not be  
250 utilized;

251 (ii) Gender;

252 (iii) Geographic area, provided an area smaller than a county shall  
253 not be utilized;

254 (iv) Industry, provided the rate factor associated with any industry  
255 classification shall not vary from the arithmetic average of the highest  
256 and lowest rate factors associated with all industry classifications by

257 greater than fifteen per cent of such average, and provided further, the  
258 rate factors associated with any industry shall not be increased by more  
259 than five per cent per year;

260 (v) Group size, provided the highest rate factor associated with group  
261 size shall not vary from the lowest rate factor associated with group size  
262 by a ratio of greater than 1.25 to 1.0;

263 (vi) Administrative cost savings resulting from the administration of  
264 an association group plan or a plan written pursuant to section 5-259,  
265 provided the savings reflect a reduction to the small employer carrier's  
266 overall retention that is measurable and specifically realized on items  
267 such as marketing, billing or claims paying functions taken on directly  
268 by the plan administrator or association, except that such savings may  
269 not reflect a reduction realized on commissions;

270 (vii) Savings resulting from a reduction in the profit of a carrier that  
271 writes small business plans or arrangements for an association group  
272 plan or a plan written pursuant to section 5-259, provided any loss in  
273 overall revenue due to a reduction in profit is not shifted to other small  
274 employers; and

275 (viii) Family composition, provided the small employer carrier shall  
276 utilize only one or more of the following billing classifications: (I)  
277 Employee; (II) employee plus family; (III) employee and spouse; (IV)  
278 employee and child; (V) employee plus one dependent; and (VI)  
279 employee plus two or more dependents.

280 (C) (i) With respect to nongrandfathered plans issued to small  
281 employers, the premium rates charged or offered shall be established on  
282 the basis of a single pool of all nongrandfathered plans, adjusted to  
283 reflect one or more of the following classifications:

284 (I) Age, in accordance with a uniform age rating curve established by  
285 the commissioner; or

286 (II) Geographic area, as defined by the commissioner.

287 (ii) Total premium rates for family coverage for nongrandfathered  
288 plans shall be determined by adding the premiums for each individual  
289 family member, except that with respect to family members under  
290 twenty-one years of age, the premiums for only the three oldest covered  
291 children shall be taken into account in determining the total premium  
292 rate for such family.

293 (iii) Premium rates for employees and dependents for  
294 nongrandfathered plans shall be calculated for each covered individual  
295 and premium rates for the small employer group shall be calculated by  
296 totaling the premiums attributable to each covered individual.

297 (iv) Premium rates for any given plan may vary by (I) actuarially  
298 justified differences in plan design, and (II) actuarially justified amounts  
299 to reflect the policy's provider network and administrative expense  
300 differences that can be reasonably allocated to such policy.

301 (3) No small employer carrier or producer shall, directly or indirectly,  
302 engage in the following activities:

303 (A) Encouraging or directing small employers to refrain from filing  
304 an application for coverage with the small employer carrier because of  
305 the health status, claims experience, industry, occupation or geographic  
306 location of the small employer, except the provisions of this  
307 subparagraph shall not apply to information provided by a small  
308 employer carrier or producer to a small employer regarding the carrier's  
309 established geographic service area or a restricted network provision of  
310 a small employer carrier; or

311 (B) Encouraging or directing small employers to seek coverage from  
312 another carrier because of the health status, claims experience, industry,  
313 occupation or geographic location of the small employer.

314 (4) No small employer carrier shall, directly or indirectly, enter into  
315 any contract, agreement or arrangement with a producer that provides  
316 for or results in the compensation paid to a producer for the sale of a  
317 health benefit plan to be varied because of the health status, claims

318 experience, industry, occupation or geographic area of the small  
319 employer. A small employer carrier shall provide reasonable  
320 compensation, as provided under the plan of operation of the program,  
321 to a producer, if any, for the sale of a health care plan. No small  
322 employer carrier shall terminate, fail to renew or limit its contract or  
323 agreement of representation with a producer for any reason related to  
324 the health status, claims experience, occupation, or geographic location  
325 of the small employers placed by the producer with the small employer  
326 carrier.

327 (5) No small employer carrier or producer shall induce or otherwise  
328 encourage a small employer to separate or otherwise exclude an  
329 employee from health coverage or benefits provided in connection with  
330 the employee's employment.

331 (6) No small employer carrier or producer shall disclose (A) to a small  
332 employer the fact that any or all of the eligible employees of such small  
333 employer have been or will be reinsured with the pool, or (B) to any  
334 eligible employee or dependent the fact that he has been or will be  
335 reinsured with the pool.

336 (7) If a small employer carrier enters into a contract, agreement or  
337 other arrangement with another party to provide administrative,  
338 marketing or other services related to the offering of health benefit plans  
339 to small employers in this state, the other party shall be subject to the  
340 provisions of this section.

341 (8) The commissioner may adopt regulations, in accordance with the  
342 provisions of chapter 54, setting forth additional standards to provide  
343 for the fair marketing and broad availability of health benefit plans to  
344 small employers.

345 (9) Any violation of subdivisions (3) to (7), inclusive, of this section  
346 and of any regulations established under subdivision (8) of this section  
347 shall be an unfair and prohibited practice under sections 38a-815 to 38a-  
348 830, inclusive.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2023</i>	New section
Sec. 2	<i>October 1, 2023</i>	New section
Sec. 3	<i>October 1, 2023</i>	New section
Sec. 4	<i>October 1, 2023</i>	38a-567

**Statement of Purpose:**

To authorize self-funded and fully insured multiple employer welfare arrangements in this state.

*[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.]*