
OLR Bill Analysis

sHB 5503

AN ACT CONCERNING INSURANCE MARKET CONDUCT AND INSURANCE LICENSING, THE INSURANCE DEPARTMENT'S TECHNICAL CORRECTIONS AND OTHER REVISIONS TO THE INSURANCE STATUTES AND CAPTIVE INSURANCE.

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Allows a captive insurer’s protected cell to convert into a new protected cell, incorporated cell, or captive insurance company without any impact on the protected cell’s assets, rights, benefits, obligations, and liabilities

BACKGROUND

SUMMARY

This bill makes numerous unrelated changes to insurance statutes, as summarized in the section-by-section analysis below.

EFFECTIVE DATE: October 1, 2024, unless otherwise stated below.

§ 1 — INSURANCE COMMISSIONER’S ENFORCEMENT AUTHORITY

Allows the insurance commissioner to impose restitution, with interest, when someone violates the state’s insurance laws, regulations, or commissioner orders; allows the commissioner to ask the attorney general to file a court action to enforce the laws, regulations, or commissioner orders, impose a fine of up to \$100,000 per violation, or order restitution with interest

By law, the insurance commissioner must administer and enforce the laws regarding insurance companies and health care centers (i.e., HMOs). Relatedly, the law grants him the reasonable and necessary powers to protect the public interest.

The bill explicitly allows the commissioner to order restitution of any amount obtained in violation of the state’s insurance laws, regulations, or commissioner orders, plus interest as allowed under another state

law. This is generally 10% interest per year (CGS § 37-3a).

Additionally, whenever the commissioner finds and can show that a person has violated, or is about to violate, the state's insurance laws, regulations, or commissioner orders, the bill allows him to ask the attorney general to bring an action in Hartford Superior Court for an injunction (permanent or temporary), restraining order, or other appropriate order; a penalty of up to \$100,000 per violation; or restitution, with interest, for the amount the person obtained in violation of the laws, regulations, or commissioner orders. The commissioner is not required to post a bond in any court action brought. And if the commissioner prevails in court, the court may also order the state's costs be paid as part of its order. (Under existing law, the commissioner may already request the attorney general to apply to Superior Court for a permanent or temporary order restraining a person from violating the insurance laws (CGS § 38a-16(b)).)

§ 2 — 30 DAYS TO TURN OVER DOCUMENTS

Requires anyone requested to provide the Insurance Department with documents related to an investigation to comply within 30 days after the request

By law, the insurance commissioner may conduct investigations and hearings on any matter under the insurance laws. He may, among other things, order the production of books, records, papers, or documents for an investigation.

The bill requires that anyone who receives a request for the production of books, records, papers, or documents comply with the order within 30 days after the date of the order. By law, if a person refuses to comply, the commissioner may ask the Superior Court to order compliance.

§§ 3 & 4 — EXPIRATION DATE FOR CERTAIN INITIAL LICENSES

Revises the expiration date for initial licenses issued to motor vehicle damage appraisers and casualty claims adjusters from June 30 in an odd-numbered year to two years after the licensee's birthday that came before the license was issued

Under current law, initial licenses for motor vehicle damage appraisers and casualty claim adjusters expire on the June 30 in an odd-numbered year following the license issuance, unless sooner revoked or

suspended. The bill changes this expiration date to be two years after the licensee's birthday that came before the date the license was issued, unless it was already revoked or suspended. By law, a licensee may renew the license every two years at the insurance commissioner's discretion with payment of the required renewal fees.

§ 5 — GENERAL INSURANCE ASSESSMENT PROCESS

Removes the Office of the Healthcare Advocate from the Insurance Department's annual process of assessing carriers for the general insurance assessment

By law, domestic insurers and HMOs pay an annual assessment to the Insurance Department to cover the expenses of the Insurance Department, Office of the Healthcare Advocate, and Office of Health Strategy, among other things.

Under current law, the insurance commissioner and the Office of the Healthcare Advocate assess the entities following a process set in state law. The bill removes the Office of the Healthcare Advocate from this process, leaving the insurance commissioner to manage the assessment process.

It also makes technical and conforming changes.

§§ 6, 7 & 12 — ELECTRONIC FILINGS IN LIEU OF PAPER FILINGS

Removes requirements that insurers file copies of annual financial statements and audited financial reports with the insurance commissioner, allowing electronic filings to the NAIC to suffice

Current law requires domestic insurers, HMOs, and fraternal benefit societies to file copies of annual financial statements and audited financial reports with the insurance commissioner as well as electronically with the National Association of Insurance Commissioners (NAIC). The bill eliminates the requirement to submit these to the commissioner. Instead, it deems the companies' electronic submissions to the NAIC, as required by law, to have been filed with the commissioner.

§ 8 — NON-ENGLISH INSURANCE DOCUMENTS AND TRANSLATIONS

Requires insurers who file policies in a non-English language to certify that they comply with readable language requirements and bear the risks associated with any translations; allows the insurance commissioner to hire translation services at the insurer's cost

By law, insurance policies filed with the Insurance Department must meet certain readability standards (e.g., Flesch reading ease scores and print specifications). As under current law, the bill allows insurers to file policies in any language. The insurer must certify that the policy complies with the readability standards or is translated from a policy that complies.

The bill allows the insurance commissioner to hire a translation service to review a non-English-language policy filed by an insurer. The insurer that filed the policy must pay the cost of the translation. Alternatively, the commissioner may require the insurer to provide an English translated copy of the policy and a certification as to the accuracy of the translation. The bill requires the insurer to accept all risk associated with a translation.

The bill also allows the commissioner to adopt implementing regulations.

§ 9 — PHARMACY BENEFIT MANAGER REPORT DUE DATE

Moves up the annual due date for PBMs to report rebate information to the insurance commissioner by one month; requires the commissioner to give the PBMs a copy of his annual report to the Insurance and Real Estate Committee by 10 days before it is due to the committee

By law, each pharmacy benefit manager (PBM) must file a report annually with the insurance commissioner concerning prescription drug rebates. Under current law, the report is due by March 1. The bill moves up the due date to February 1, beginning in 2025.

The law also requires the commissioner to report to the Insurance and Real Estate Committee, annually by March 1, an aggregation of the PBMs' rebate reports. Under current law, the commissioner must give the PBMs an advanced copy of this report by February 1 annually. The bill instead requires him to give them the advanced copy by 10 days before he reports to the committee.

EFFECTIVE DATE: January 1, 2025

§§ 10 & 16 — CONNECTICUT CLEARINGHOUSE REPEALED

Repeals a requirement that the Health Reinsurance Association develop the Connecticut Clearinghouse on health insurance policies available in the state

Current law requires the Health Reinsurance Association to develop the Connecticut Clearinghouse as a resource for individuals and small employers to get information on health insurance policies and plans available in the state. The bill repeals this requirement. (The clearinghouse has largely been replaced by the health insurance exchange, Access Health CT.)

EFFECTIVE DATE: Upon passage

§ 11 — SMALL EMPLOYER DEFINITION

Beginning January 1, 2025, updates the definition of “small employer” in the health insurance statutes to mean having no more than 50 employees

Beginning January 1, 2025, the bill defines “small employer” for purposes of the health insurance laws to mean an employer with an average of at least one and no more than 50 employees on business days in the prior calendar year and at least one employee on the first day of the group health insurance plan year.

Current law extends the definition to no more than 100 employees, except that the insurance commissioner may postpone that definition to be consistent with the federal Affordable Care Act. The commissioner did that in Insurance Bulletin HC-106 (2015). So, in practice, the small employer definition has been no more than 50 employees since before 2016.

The bill removes the commissioner’s authority to postpone the change in definition. As a result, under the bill, from October 1, 2024, to December 31, 2024, a small employer is one that has no more than 100 employees. This means plans covering between 50 and 100 employees must comply with the laws affecting small employers for a three-month period (e.g., rating requirements, mandatory benefits).

§ 13 — INDEPENDENT REVIEW ORGANIZATION ACCREDITATION PERIOD

Extends the accreditation approval or reapproval period for independent review organizations from two to three years

By law, the insurance commissioner maintains a list of accredited independent review organizations that are available to conduct regular or expedited external reviews of health insurance grievances. Under current law, an accreditation lasts two years. The bill extends this to three years. As under existing law, if the commissioner determines that an organization no longer meets the minimum requirements for accreditation, he must end its approval and remove it from the list of approved organizations.

§§ 14 & 15 — CAPTIVE INSURER CONVERSION OF PROTECTED CELLS

Allows a captive insurer's protected cell to convert into a new protected cell, incorporated cell, or captive insurance company without any impact on the protected cell's assets, rights, benefits, obligations, and liabilities

Captive Insurer

Generally, a captive insurer is an insurance company formed to insure or reinsure the risks of its owners, parent company, or affiliated company. The law allows several different types of captive insurers to be licensed and operate in the state, including a sponsored captive insurer.

A sponsored captive insurer is an insurance company (1) for which one or more sponsors provide the minimum paid-in capital and surplus, (2) that insures its participants through separate participant contracts, and (3) that funds its liability to each participant through protected cells and separates each cell's assets from that of other cells and the captive insurer as a whole. PA 23-15 allowed these protected cells to establish, with the insurance commissioner's prior written approval, separate accounts and allocate assets to them, subject to certain requirements.

Conversion of Protected Cell Allowed

The bill allows sponsored captive insurers to convert protected or incorporated protected cells into one of the following other insurance company structures or types of accounts:

1. a single protected or incorporated protected cell;
2. a new sponsored captive insurer (including those licensed as a

- special purpose financial captive insurer);
3. a new special purpose financial captive, pure captive, agency captive, industrial insured captive, or association captive insurer; or
 4. a new risk retention group.

Any conversion is deemed to (1) be a continuation of the cell's existence, with all of its assets, rights, benefits, obligations, and liabilities, and (2) occur without any transfer or assignment of these assets, rights, benefits, obligations, and liabilities and without creating any reversionary interest in or impairment of them. The bill specifies that the conversion does not limit any rights or protections applicable to the cell or the sponsored captive that existed prior to the conversion.

Conversion Process

Under the bill, a sponsored captive must apply to the insurance commissioner and receive his prior written approval for the conversion. Additionally, the bill subjects the conversion to the existing laws regulating captives and the sponsored captive insurer's plan of operation approved by the commissioner, without affecting the converted cell's assets, rights, benefits, obligations, and liabilities.

For cells that convert into an incorporated protected cell or a new captive insurer or risk retention group, the conversion must follow all existing business corporation or limited liability company laws that are applicable to the newly formed business or legal entity.

BACKGROUND

Legislative History

The House referred the bill (File 378) to the Insurance and Real Estate Committee, which reported a substitute that replaced the underlying bill's study of workforce shortages and workforce development with various insurance-related provisions.

Related Bill

SB 372 (File 570), favorably reported by the Appropriations

Committee, among other things, limits the type of domestic insurance entities required to pay the portion of the general insurance assessment that supports the budgets of the Office of the Healthcare Advocate and the Office of Health Strategy.

COMMITTEE ACTION

Commerce Committee

Joint Favorable

Yea 21 Nay 3 (03/21/2024)

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 12 Nay 0 (04/23/2024)