



Agency Legislative Proposal - 2020 Session

Document Name: 11042020_CID_Captives

(If submitting electronically, please label with date, agency, and title of proposal – 092620_SDE_TechRevisions)

State Agency: Connecticut Insurance Department (CID)

Liaison: Jim Carson

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Lead agency division requesting this proposal: CID Captive Division

Agency Analyst/Drafter of Proposal: Jon Arsenault, General Counsel

Title of Proposal: An Act Concerning Captive Insurance Companies

Statutory Reference: CGS §§ 38a-91aa, 38a-91bb, 38a-91dd, 38a-91ff, 38a-91gg, 38a-91hh, 38a-91uu, § 10 (NEW).

Proposal Summary:

- § 1. Amends definition of “branch captive insurance company” to include foreign captives; adds definition of “foreign captive insurance company”; amends definition of “association” to delete time requirement.
- § 2. References conditional licenses; deletes requirement for holding at least one board meeting in CT each year.
- § 3. Makes technical changes regarding foreign branch captives.
- § 4. Gives the Commissioner the authority to issue a conditional license.
- § 5. Lowers capital and surplus requirements for pure captives/ branch captives, but gives authority to the Commissioner to impose a higher level of capital and surplus; adds provisions regarding branch captive assets; adds provision that capital and surplus may be in the form of any asset approved by the Commissioner.
- § 6. Makes technical changes adding references to foreign captives.
- § 7. Changes pure captive annual report due date; revises language governing reports for alien or foreign branch captives.



- §8. Requires financial examinations at least one every five years instead of every three years and, for pure captives, permits the Commissioner to waive the necessity to examine the insurer every five years.
- § 9. Makes a purely technical change.
- §10. Establishes a 3 year look-back and waiver of penalties on outstanding liabilities for CT insureds that have not paid the independently procured insurance premium tax and who establish a branch captive in CT or re-domicile a foreign or alien captive to CT not later than July 1, 2021.

PROPOSAL BACKGROUND

◇ **Reason for Proposal**

Please consider the following, if applicable:

- (1) Have there been changes in federal/state/local laws and regulations that make this legislation necessary? **No.**
- (2) Has this proposal or something similar been implemented in other states? **Yes.** If yes, what is the outcome(s)? **More insureds would find the state more attractive to form a captive insurers.** Are other states considering something similar this year? **No information.**
- (3) Have certain constituencies called for this action? **The Connecticut Captive Insurance Association**
- (4) What would happen if this was not enacted in law this session? **Resubmit the legislation in the following session.**

◇ **Origin of Proposal** **New Proposal** **Resubmission**

If this is a resubmission, please share:

- (1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration’s package?
- (2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?
- (3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?
- (4) What was the last action taken during the past legislative session?

PROPOSAL IMPACT

◇ **AGENCIES AFFECTED** (please list for each affected agency)

Agency Name: Department of Revenue Services - § 10
Agency Contact (name, title, phone): Susan Sherman, Manager, Research Unit, 860.297.5693
Date Contacted: 10/23/2019

Approve of Proposal - § 10 **YES** **NO** **Talks Ongoing**

Summary of Affected Agency’s Comments
 DRS supports the language in § 10.

Will there need to be further negotiation? **YES** **NO**



◇ **FISCAL IMPACT** *(please include the proposal section that causes the fiscal impact and the anticipated impact)*

Municipal <i>(please include any municipal mandate that can be found within legislation)</i> None
State Each new captive insurance company established in CT generates annual premium tax that goes to the General Fund. The amount of premium tax is dependent on the level of premium written by the company and ranges from a minimum of \$7,500 to a max of \$200,000 annually. Branch captives would bring to CT premium taxes currently lost to other states who act as the home domicile for such companies.
Federal None
Additional notes on fiscal impact

◇ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

This legislation will make CT more attractive to insureds contemplating the formation of a captive insurer. Section 10 will give insureds an incentive to form a branch captive in CT.
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◇ **EVIDENCE BASE**

<p><i>What data will be used to track the impact of this proposal over time, and what measurable outcome do you anticipate? Is that data currently available or must it be developed? Please provide information on the measurement and evaluation plan. Where possible, those plans should include process and outcome components. Pew MacArthur Results First evidence definitions can help you to establish the evidence-base for your program and their Clearinghouse allows for easy access to information about the evidence base for a variety of programs.</i></p> <p>The easiest and best measure of the impact of the proposed changes to captive insurance company statutes would be to measure the number of new captive formations by type and the amount of premium tax collected from such entities. Currently the CID Captive Division tracks company licenses by type and license date and DRS keeps data on taxes from such entities, no new data or methods would be required for such a measurement.</p>
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[Insert fully drafted bill here](#)



AN ACT CONCERNING CAPTIVE INSURANCE COMPANIES.

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

Section 1. Section 38a-91aa of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2020*):

As used in sections 38a-91aa to 38a-91tt, inclusive, and sections 38a-91ww and 38a-91xx:

(1) "Affiliated company" means any company in the same corporate system as a parent, an industrial insured or a member organization by virtue of common ownership, control, operation or management.

(2) "Agency captive insurance company" means a captive insurance company that:

(A) Is owned or directly or indirectly controlled by one or more insurance agents or insurance producers licensed in accordance with sections 38a-702a to 38a-702r, inclusive;

(B) Only insures against risks covered by insurance policies sold, solicited or negotiated through the insurance agents or insurance producers that own or control such captive insurance company; and

(C) Does not insure against risks covered by any health insurance policy or plan.

(3) "Alien captive insurance company" means any insurance company formed to write insurance business for its parent and affiliated companies and licensed pursuant to the laws of an alien jurisdiction that imposes statutory or regulatory standards on companies transacting the business of insurance in such jurisdiction that the commissioner deems to be acceptable.

(4) "Association" means any legal association of individuals, corporations, limited liability companies, partnerships, associations or other entities, [that has been in continuous existence for at least one year,] where the association itself or some or all of the member organizations:

(A) Directly or indirectly own, control or hold with power to vote all of the outstanding voting securities or other voting interests of an association captive insurance company incorporated as a stock insurer;

(B) Have complete voting control over an association captive insurance company incorporated as a mutual corporation or formed as a limited liability company; or



(C) Constitute all of the subscribers of an association captive insurance company formed as a reciprocal insurer.

(5) "Association captive insurance company" means any company that insures risks of the member organizations of an association, and includes a company that also insures risks of such member organizations' affiliated companies or of the association.

(6) "Branch business" means any insurance business transacted in this state by a branch captive insurance company.

(7) "Branch captive insurance company" means any foreign captive insurance company or alien captive insurance company licensed by the commissioner to transact the business of insurance in this state through a business unit with a principal place of business in this state.

(8) "Branch operations" means any business operations in this state of a branch captive insurance company.

(9) "Captive insurance company" means any (A) pure captive insurance company, agency captive insurance company, association captive insurance company, industrial insured captive insurance company, risk retention group, sponsored captive insurance company or special purpose financial captive insurance company that is domiciled in this state and formed or licensed under the provisions of sections 38a-91aa to 38a-91tt, inclusive, or (B) branch captive insurance company.

(10) "Ceding insurer" means an insurance company, approved by the commissioner and licensed or otherwise authorized to transact the business of insurance or reinsurance in its state or country of domicile that cedes risk to a special purpose financial captive insurance company pursuant to a reinsurance contract.

(11) "Commissioner" means the Insurance Commissioner.

(12) "Controlled unaffiliated business" means any person:

(A) Who, (i) in the case of a pure captive insurance company, is not in the corporate system of a parent and the parent's affiliated companies, or (ii) in the case of an industrial insured captive insurance company, is not in the corporate system of an industrial insured and the industrial insured's affiliated companies;



(B) Who, (i) in the case of a pure captive insurance company, has an existing contractual relationship with a parent or one of the parent's affiliated companies, or (ii) in the case of an industrial insured captive insurance company, has an existing contractual relationship with an industrial insured or one of the industrial insured's affiliated companies; and

(C) Whose risks are managed by a pure captive insurance company or an industrial insured captive insurance company, as applicable, in accordance with section 38a-91qq.

(13) "Excess workers' compensation insurance" means, in the case of an employer that has insured or self-insured its workers' compensation risks in accordance with applicable state or federal law, insurance in excess of a specified per-incident or aggregate limit established by the commissioner.

(14) "Foreign captive insurance company" means any insurance company formed to write insurance business for its parent and affiliated companies and licensed pursuant to the laws of a foreign jurisdiction that imposes statutory or regulatory standards on companies transacting the business of insurance in such jurisdiction that the commissioner deems to be acceptable.

[(14)] (15) "Incorporated protected cell" means a protected cell that is established as a corporation or a limited liability company, separate from the sponsored captive insurance company with which it has entered into a participant contract.

[(15)] (16) "Industrial insured" means an insured:

(A) Who procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer;

(B) Whose aggregate annual premiums for insurance on all risks total at least twenty-five thousand dollars; and

(C) Who has at least twenty-five full-time employees.

[(16)] (17) "Industrial insured captive insurance company" means any company that insures risks of the industrial insureds that comprise an industrial insured group, and includes a company that also insures risks of such industrial insureds' affiliated companies.

[(17)] (18) "Industrial insured group" means any group of industrial insureds that collectively:



(A) Directly or indirectly own, control or hold with power to vote all of the outstanding voting securities or other voting interests of an industrial insured captive insurance company incorporated as a stock insurer;

(B) Have complete voting control over an industrial insured captive insurance company incorporated as a mutual corporation or formed as a limited liability company; or

(C) Constitute all of the subscribers of an industrial insured captive insurance company formed as a reciprocal insurer.

[(18)] (19) "Insurance securitization" or "securitization" means a transaction or a group of related transactions, which may include capital market offerings, that are effected through related risk transfer instruments and facilitating administrative agreements, in which all or part of the result of such transaction is used to fund a special purpose financial captive insurance company's obligations under a reinsurance contract with a ceding insurer and by which:

(A) A special purpose financial captive insurance company directly or indirectly obtains proceeds through the issuance of securities by such company or any other person; or

(B) A person provides, for the benefit of a special purpose financial captive insurance company, one or more letters of credit or other assets that the commissioner has authorized such company to treat as admitted assets for purposes of its annual report. "Insurance securitization" or "securitization" does not include the issuance of a letter of credit for the benefit of the commissioner to satisfy all or part of a special purpose financial captive insurance company's capital and surplus requirements under section 38a-91dd.

[(19)] (20) "Member organization" means any individual, corporation, limited liability company, partnership, association or other entity that belongs to an association.

[(20)] (21) "Mutual corporation" means a corporation organized without stockholders and includes a nonprofit corporation with members.

[(21)] (22) "Parent" means any individual, corporation, limited liability company, partnership or other entity that directly or indirectly owns, controls or holds with power to vote more than fifty per cent of the outstanding voting:



(A) Securities of a pure captive insurance company organized as a stock insurer; or

(B) Membership interests of a pure captive insurance company organized as a nonprofit corporation or as a limited liability company.

[(22)] (23) "Participant" means any association, corporation, limited liability company, partnership, trust or other entity, and any affiliated company thereof, that is insured by a sponsored captive insurance company pursuant to a participant contract.

[(23)] (24) "Participant contract" means a contract entered into by a sponsored captive insurance company and a participant by which the sponsored captive insurance company insures the risks of the participant and limits the losses of each such participant to its pro rata share of the assets of one or more protected cells identified in such participant contract.

[(24)] (25) "Protected cell" means a separate account established by a sponsored captive insurance company, in which assets are maintained for one or more participants in accordance with the terms of one or more participant contracts to fund the liability of the sponsored captive insurance company assumed on behalf of such participants as set forth in such participant contracts.

[(25)] (26) "Pure captive insurance company" means any company that insures risks of its parent and affiliated companies or controlled unaffiliated business.

[(26)] (27) "Reinsurance contract" means a contract entered into by a special purpose financial captive insurance company and a ceding insurer by which the special purpose financial captive insurance company agrees to provide reinsurance to the ceding insurer for risks associated with the ceding insurer's insurance or reinsurance business.

[(27)] (28) "Risk retention group" means a captive insurance company organized under the laws of this state pursuant to the federal Liability Risk Retention Act of 1986, 15 USC 3901 et seq., as amended from time to time, as a stock insurer or mutual corporation, a reciprocal or other limited liability entity.

[(28)] (29) "Security" has the same meaning as provided in section 36b-3 and includes any form of debt obligation, equity, surplus certificate, surplus note, funding agreement, derivative or other financial instrument that the commissioner designates as a security for purposes of sections 38a-91aa to 38a-91tt, inclusive.



[(29)] (30) "Special purpose financial captive insurance company" means a company that is licensed by the commissioner in accordance with section 38a-91bb, as amended by this act.

[(30)] (31) "Special purpose financial captive insurance company security" means a security issued by (A) a special purpose financial captive insurance company, or (B) a third party, the proceeds of which are obtained directly or indirectly by a special purpose financial captive insurance company.

[(31)] (32) "Sponsor" means any association, corporation, limited liability company, partnership, trust or other entity that is approved by the commissioner to organize and operate a sponsored captive insurance company and to provide all or part of the required unimpaired paid-in capital and surplus.

[(32)] (33) "Sponsored captive insurance company" means a captive insurance company:

(A) In which the minimum required unimpaired paid-in capital and surplus are provided by one or more sponsors;

(B) That insures risks of its participants only through separate participant contracts; and

(C) That funds its liability to each participant through one or more protected cells and segregates the assets of each protected cell from the assets of other protected cells and from the assets of the sponsored captive insurance company's general account.

[(33)] (34) "Surplus note" means an unsecured subordinated debt obligation possessing characteristics consistent with the National Association of Insurance Commissioners Statement of Statutory Accounting Principles No. 41, as amended from time to time, and as modified or supplemented by the commissioner.

Sec. 2. Subsection (b) of section 38a-91bb of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2020):

(b) No captive insurance company shall do any insurance business in this state unless:

(1) It first obtains from the Insurance Commissioner a license authorizing it to do insurance business in this state, or a conditional license under section 4 of this act;



(2) [Its board of directors or committee of managers or, in the case of a reciprocal insurer, its subscribers' advisory committee holds at least one meeting each year in this state;

(3)](2) It maintains its principal place of business in this state; and

[(4)](3) It appoints a registered agent to accept service of process and to otherwise act on its behalf in this state. Whenever such registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the Insurance Commissioner shall be an agent of such captive insurance company upon whom any process, notice or demand may be served.

Sec. 3. Subsection (e) of section 38a-91bb of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2020):

(e) (1) If the commissioner finds that the documents and statements that a captive insurance company, other than a special purpose financial captive insurance company, has filed comply with the provisions of sections 38a-91aa to 38a-91tt, inclusive, as amended by this act, the commissioner may grant a license authorizing the company to do insurance business in this state until April first thereafter. The captive insurance company may apply to renew such license on such forms as the commissioner prescribes.

(2) (A) The commissioner may grant a license authorizing a special purpose financial captive insurance company to do reinsurance business in this state until April first thereafter upon the commissioner's finding that (i) the proposed plan of operation provides for a reasonable and expected successful operation, (ii) the terms of the reinsurance contract and related transactions comply with sections 38a-91aa to 38a-91tt, inclusive, as amended by this act (iii) the proposed plan of operation is not hazardous to any ceding insurer, and (iv) the insurance regulator of the state of domicile of each ceding insurer has notified the commissioner in writing or has otherwise provided assurance satisfactory to the commissioner that such regulator has approved or has not disapproved the transaction, provided the commissioner shall not be precluded from issuing a license to a special purpose financial captive insurance company if such regulator has not responded with respect to all or any part of the transaction.

(B) In conjunction with granting such license, the commissioner may issue an order to the special purpose financial captive insurance company of any additional provisions, terms or conditions regarding the organization, licensing or operation of such company that are not inconsistent with the provisions of this chapter and are deemed appropriate by the commissioner.



(3) The commissioner shall not grant a license to a branch captive insurance company unless the foreign captive insurance company or alien captive insurance company grants the commissioner authority to examine the foreign captive insurance company or alien captive insurance company in the jurisdiction in which the foreign captive insurance company or alien captive insurance company is formed, operates or maintains books and records.

Sec. 4. Section 38a-91bb of the general statutes is amended by adding subsection (f), as follows (Effective July 1, 2020):

(NEW) (f)(1) Before the completion of the commissioner's review of a captive insurance company's application materials, the commissioner may, in the sole discretion of the commissioner, issue a conditional certificate of authority upon the commissioner's receipt of all of the following:

(A) Satisfactory evidence of the captive insurance company's possession of the minimum required capital and surplus set forth in section 38a-91dd, as amended by this act; and

(B) The application materials required by this section; and

(C) A statement of compliance signed by the owner of the captive insurance company stating that to the best of the owner's belief the business plan and other documents filed with the application for a conditional certificate of authority comply with all of the following:

(i) All licensing requirements mandated by sections 38a-91aa to 38a-91tt, inclusive, and sections 38a-91ww and 38a-91xx; and

(ii) Any additional requirements the commissioner may adopt in accordance with chapter 54 of the general statutes.

(2) The commissioner may summarily revoke a conditional license without legal recourse by the captive insurance company if one of the following applies:

(A) The commissioner is unable to verify within six months of the issuance of the conditional license that the captive insurance company possesses the minimum required capital and surplus indicated on the form submitted to the commissioner for issuance of the conditional license; or

(B) The commissioner determines that the business plan or other documents filed with the application for a license do not comply with all of the following:



(i) All licensing requirements mandated by sections 38a-91aa to 38a-91tt, inclusive, and sections 38a-91ww and 38a-91xx; and

(ii) Any additional requirements the commissioner may adopt in accordance with chapter 54 of the general statutes.

(iii) Upon the issuance of a conditional license under this subsection, the captive insurance company shall comply with and be subject to sections 38a-91aa to 38a-91uu, inclusive, and sections 38a-91ww and 38a-91xx.

Sec. 5. Section 38a-91dd of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2020):

(a) (1) The [Insurance Commissioner] commissioner shall not issue a license to a captive insurance company or allow the company to retain such license unless the company has and maintains unimpaired paid-in capital and surplus of:

(A) In the case of a pure captive insurance company, not less than [two hundred fifty] fifty thousand dollars, **unless the commissioner determines that a higher minimum amount, is required for such captive in order to meet its policy obligations;**

(B) In the case of an association captive insurance company, not less than five hundred thousand dollars;

(C) In the case of an industrial insured captive insurance company, not less than five hundred thousand dollars;

(D) In the case of a risk retention group, not less than one million dollars;

(E) In the case of a sponsored captive insurance company, not less than two hundred twenty-five thousand dollars;

(F) In the case of a special purpose financial captive insurance company, not less than two hundred fifty thousand dollars;

(G) In the case of a sponsored captive insurance company licensed as a special purpose financial captive insurance company, not less than five hundred thousand dollars; and



(H) In the case of an agency captive insurance company, not less than five hundred thousand dollars.

(2) (A) The [Insurance Commissioner] commissioner shall not issue a license to a branch captive insurance company or allow the company to retain such license unless the company has and maintains, as security for the payment of liabilities attributable to the branch operations:

(i) Not less than [two hundred fifty] **fifty** thousand dollars, **unless the commissioner determines that a higher minimum amount, is required for such captive in order to meet its policy obligations;** and

(ii) Reserves on such insurance policies or such reinsurance contracts as may be issued or assumed by the branch captive insurance company through its branch operations, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums with regard to business written through the branch operations. The commissioner may permit a branch captive insurance company to credit against any such reserves any [security for loss reserves that the branch captive insurance company posts with a ceding insurer or is posted by a reinsurer with the branch captive insurance company, so long as such security remains posted.] any assets belonging to (I) the company that are held in trust for, or otherwise segregated or controlled by, a ceding insurer that secure the reinsurance obligations of such company to the ceding insurer, or (II) a reinsurer that are held in trust for, or otherwise under the control of, the company and secure the reinsurance obligations of the reinsurer to such company.

(B) The amounts required under subparagraph (A) of this subdivision may be held, with the prior approval of the commissioner, in the form of (i) a trust formed under a trust agreement and funded by assets acceptable to the commissioner, (ii) an irrevocable letter of credit issued or confirmed by a bank approved by the commissioner, (iii) with respect to the amount required under subparagraph (A)(i) of this subdivision only, cash on deposit with the commissioner, or (iv) any combination thereof.

(C) The commissioner may exempt a foreign branch captive insurance company from the requirements established in this subdivision, provided the commissioner determines, in the commissioner's discretion, that the company is financially stable.

(b) The commissioner may adopt regulations, in accordance with chapter 54, to establish additional capital and surplus requirements based upon the type, volume and nature of insurance business transacted.



(c) Notwithstanding any other provision of this section, the commissioner shall have the discretion to allow a captive insurance company, other than a captive insurance company organized as a risk retention group, to maintain less than the required unimpaired paid-in capital and surplus set forth in subsection (a) of this section. The commissioner shall consider the type, volume and nature of the insurance or reinsurance business transacted by such a captive insurance company in establishing the amount of unimpaired paid-in capital and surplus the company is required to maintain.

(d) Except as specified in subdivision (2) of subsection (a) of this section, capital and surplus may be in the form of cash or an irrevocable letter of credit issued by a bank approved by the commissioner.

Sec. 6. Subsection (h) of section 38a-91ff of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2020):

(h) In the case of a captive insurance company licensed as a branch captive insurance company, the foreign captive insurance company or alien captive insurance company shall petition the commissioner to issue a certificate setting forth the commissioner's finding that, after considering the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors of the foreign captive insurance company or alien captive insurance company, the licensing and maintenance of the branch operations will promote the general good of the state. The foreign captive insurance company or alien captive insurance company may register to do business in this state after the commissioner's certificate is issued.

Sec. 7. Subdivision (1) of subsection (b) of section 38a-91gg of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2020):

(b) (1) (A) Prior to [March] June first of each year and, in the case of pure captive insurance companies and industrial insured captive insurance companies, prior to [March fifteenth] first of each year, each captive insurance company, other than a branch captive insurance company for which the commissioner has waived any of the requirements of this subparagraph (A) pursuant to subparagraph (B) of this subdivision, shall [submit to] file with the [Insurance Commissioner] commissioner a report of its financial condition verified by oath of two of its executive officers. The commissioner shall establish the form and content of the annual report to be filed by special purpose captive insurance companies.

(B) [In the case of branch captive insurance companies, prior to March first of each year, each such company] Notwithstanding subparagraph (A) of this subdivision, a branch captive insurance company



shall [submit to] file with the commissioner a copy of all reports and statements required to be filed under the laws of the jurisdiction in which the foreign captive insurance company or alien captive insurance company is formed. Such reports and statements shall be verified by oath of two of its executive officers. Such reports and statements shall be filed with the commissioner on the same day that such reports and statements are due in the domiciliary jurisdiction of the foreign captive insurance company or alien captive insurance company. If the commissioner is satisfied that the annual report filed by the foreign captive insurance company or alien captive insurance company in its domiciliary jurisdiction provides adequate information concerning the financial condition of the branch captive insurance company [alien captive insurance company], the commissioner may waive the requirement for completion of the captive annual [statement for business written in the alien jurisdiction.] report required under subparagraph (A) of this subdivision. If the commissioner is not satisfied with the reports and statements filed pursuant to this subparagraph (B), or if the branch captive insurance company is not required to file reports or statements in its domiciliary jurisdiction, the branch captive insurance company shall, at a time prescribed by the commissioner, file a report, in a form and manner prescribed by the commissioner that provides the commissioner with adequate information concerning the financial condition of such branch captive insurance company.

Sec. 8. Subsection (a) of section 38a-91hh of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2020):

(a)(1) [At least once every three years, and additionally whenever] **Whenever** the Insurance Commissioner determines it to be prudent, **but not less frequently than once every five years,** the commissioner or the commissioner's designee shall [visit each captive insurance company and thoroughly] inspect and examine its affairs to ascertain its financial condition, its ability to fulfill its obligations and whether it has complied with the provisions of sections 38a-91aa to 38a-91tt, inclusive, and any applicable provisions of this title. [The commissioner may extend the three-year period to five years, provided a captive insurance company is subject to a comprehensive annual audit during such period by independent auditors approved by the commissioner and of a scope satisfactory to the commissioner.] **In the case of a pure captive insurance company, the commissioner may waive the necessity to examine the insurer at least once every five years.**

(2) The examination of a branch captive insurance company pursuant to this section shall be of branch business and branch operations only, as long as the branch captive insurance company provides annually to the commissioner a certificate of compliance or its equivalent, issued by or filed with the licensing authority of the jurisdiction in which the branch captive insurance company is formed, and



demonstrates to the commissioner's satisfaction that it is operating in sound financial condition in accordance with all applicable laws and regulations of such jurisdiction.

Sec. 9. Subsection (c) of section 38a-91uu of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2020):

(c) A dormant captive insurance company that has been issued a certificate of dormancy shall:

(1) Possess and maintain unimpaired, paid-in capital and surplus of not less than twenty-five thousand dollars;

(2) Not later than March 15, [2018,] annually, submit to the commissioner a report on the financial condition of such company, verified by oath of two executive officers of such company, in such form as the commissioner prescribes; and

(3) Pay the license renewal fee specified in section 38a-11 for a captive insurance company.

Sec. 10. (NEW) (Effective July 1, 2020) (a) As used in this section, (1) "independently procured insurance" has the same meaning as provided in section 38a-277 of the general statutes, and (2) "branch captive insurance company" and "foreign captive insurance company" have the same meanings as provided in section 38a-91aa of the general statutes, as amended by this act.

(b) For any insured that is liable for the tax imposed under section 38a-277 of the general statutes for any taxable period ending prior to July 1, 2020, that establishes a branch captive insurance company in this state or transfers domicile of its alien captive insurance company or its foreign captive insurance company to this state in accordance with the provisions of section 38a-58a of the general statutes, as amended by this act, not later than July 1, 2021, the Commissioner of Revenue Services shall waive all penalties for any taxable periods ending prior to July 1, 2020, provided that the insured pays all taxes and interest due to this state under section 38a-277 for periods ending on or after July 1, 2017, within forty-five days of the effective date of the establishment or domestication of a branch captive insurance company in this state.

(c) The Commissioner of Revenue Services shall not impose any liability under section 38a-277 for any periods ending prior to July 1, 2017, on any insured who complies with the provisions of subsection (b) of this section.



Agency Legislative Proposal - 2020 Session

Document Name: 11042020_CID_Credit for Reinsurance

(If submitting electronically, please label with date, agency, and title of proposal – 092620_SDE_TechRevisions)

State Agency: Connecticut Insurance Department (CID)

Liaison: Jim Carson

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Lead agency division requesting this proposal: CID Financial Regulation & Legal Divisions

Agency Analyst/Drafter of Proposal: Jon Arsenault, General Counsel

Title of Proposal: An Act Concerning Credit for Reinsurance

Statutory Reference: C.G.S. §§ 38a-85 to 38a-88, inclusive.

Proposal Summary:

The proposal adopts the National Association of Insurance Commissioners (NAIC) Credit for Reinsurance Model Law as revised June 25, 2019. The model law revisions (in conjunction with revised implementing NAIC model regulations) would eliminate reinsurance collateral requirements for “reciprocal” reinsurers that have their head office or are domiciled in any of the following: (1) a country that is a member of the European Union (EU) (or any other non-US jurisdiction that is subject to an in-force “covered agreement” (defined below) addressing the elimination of reinsurance collateral with US ceding insurers; (2) a US jurisdiction accredited by the NAIC; (3) a non-US jurisdiction (currently, Bermuda, Japan, Switzerland as non-EU member countries) recognized as a qualified jurisdiction that meets certain additional requirements consistent with the terms of a “covered agreement.” A “covered agreement” is an agreement entered into pursuant to the Dodd-Frank Act, (31 U.S.C. §§ 313 and 314), such as the Bilateral Agreement Between the U.S.A. and the EU on Prudential Measures Regarding Insurance and Reinsurance, signed on Sept. 22, 2017 and the nearly identical covered agreement between the USA and the United Kingdom (UK) which would apply to insurers and reinsurers operating in the UK following Brexit, signed on December 19, 2018 (the “EU/UK Covered Agreements”). The EU/UK Covered Agreements require the states to eliminate reinsurance collateral requirements for EU reinsurers (and UK reinsurers following Brexit) that maintain a minimum amount of own funds equivalent to \$250 million and a solvency capital ratio of 100% under Solvency II in order for US insurers that cede risks to them to take credit for such reinsurance on their financial statements.



PROPOSAL BACKGROUND

- ◇ **Reason for Proposal:** This legislation is needed because federal law authorizes the preemption of a state's credit for reinsurance laws and regulations if the Director of the Federal Insurance Office (FIO) determines that they are inconsistent with a covered agreement and result in less favorable treatment of a non-US insurer covered by the EU/UK Covered Agreements than a US insurer domiciled, licensed or otherwise admitted in that state. The reinsurance collateral reduction provisions of the EU/UK Covered Agreements are to be fully implemented by Sept. 22, 2022. The FIO Director is to begin evaluating US state insurance laws and regulations for preemption by March 1, 2021, and complete any necessary preemption determinations by Sept. 1, 2022. CT's credit for reinsurance law needs to be revised consistent with the NAIC Model Law in order to avoid federal preemption.

- ◇ **Origin of Proposal** **New Proposal** **Resubmission**

PROPOSAL IMPACT

- ◇ **AGENCIES AFFECTED** *(please list for each affected agency)*

Agency Name: No other agencies affected. Agency Contact <i>(name, title, phone)</i> : Date Contacted: Approve of Proposal <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Talks Ongoing
Summary of Affected Agency's Comments N/A
Will there need to be further negotiation? <input type="checkbox"/> YES <input type="checkbox"/> NO

- ◇ **FISCAL IMPACT** *(please include the proposal section that causes the fiscal impact and the anticipated impact)*

Municipal <i>(please include any municipal mandate that can be found within legislation)</i> No impact
State No impact if requested legislation is enacted. If such legislation is not enacted by Sept. 22, 2022, there may be litigation-related costs associated with the State of Connecticut contesting a preemption determination by the FIO of CT's credit for reinsurance law as permitted by the Dodd-Frank Act.



Federal No impact
Additional notes on fiscal impact

◇ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

The CID anticipates that the proposed changes in Sec. 1 will become a mandatory NAIC accreditation requirement in the near future.

◇ **EVIDENCE BASE**

What data will be used to track the impact of this proposal over time, and what measurable outcome do you anticipate? Is that data currently available or must it be developed? Please provide information on the measurement and evaluation plan. Where possible, those plans should include process and outcome components. Pew MacArthur Results First [evidence definitions](#) can help you to establish the evidence-base for your program and their [Clearinghouse](#) allows for easy access to information about the evidence base for a variety of programs.

This legislative proposal revises CT’s credit for reinsurance law, which specifies an accounting procedure for insurers transferring all or part of their insurance or reinsurance risk written to another insurer/reinsurer. Under this statutory accounting procedure, the insurer is permitted to treat amounts due from reinsurers as assets or reductions from liability based on the status of the reinsurer. As such, the CID will continue to monitor compliance with the credit for reinsurance law as part of its existing financial oversight of insurers via financial analysis and financial examination functions.

[Insert fully drafted bill here](#)

AN ACT CONCERNING CREDIT FOR REINSURANCE¹

Section 1. Section 38a-85 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2020):

(a) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of:

¹ The proposed legislation adopts the NAIC *Credit for Reinsurance Model Law* (#668) (the “Model Law”) as revised June 25, 2019.



- (1) Subsection (b) of this section;
- (2) Subsection (c) of this section;
- (3) Subsections (d) and (h) of this section;
- (4) Subsections (e), (h) and (i) of this section;
- (5) Subsections (f) and (i) of this section;
- (6) Subsection (g) of this section, as amended;
- (7) Subsection [(g)] (h) of this section; or
- [(7)] (8) Any regulation adopted pursuant to subsection (b) of section 38a-88.

Credit shall be allowed under subsections (b), (c) or (d) of this section only as respects cessions of those kinds or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile, or, in the case of a U.S. branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed under subsections (d) or (e) of this section only if the applicable requirements of subsection (i) have been satisfied.

(b) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state.

(c) (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is accredited by the commissioner as a reinsurer in this state. To be eligible for accreditation, an insurer shall (A) file with the commissioner evidence of its submission to this state's jurisdiction, (B) submit to this state's authority to examine its books and records, (C) be licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state, (D) file annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement, and (E) demonstrate to the satisfaction of the commissioner that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from a domestic insurer. An assuming insurer shall be deemed to meet the requirements of this subparagraph if it maintains a surplus with regard to policyholders of not less than twenty million dollars at the time of accreditation and its accreditation has not been denied by the commissioner within ninety days after the date the insurer submitted its application.

(2) Each accredited reinsurer doing business in this state shall, annually, on or before the first day of March, submit to the commissioner, by electronically filing with the National Association of



Insurance Commissioners, a true and complete report, signed and sworn to by its president or a vice president, and secretary or an assistant secretary, of its financial condition on the thirty-first day of December next preceding, prepared in accordance with the National Association of Insurance Commissioners annual statement instructions handbook and following those accounting procedures and practices prescribed by the National Association of Insurance Commissioners accounting practices and procedures manual, subject to any deviations in form and detail as may be prescribed by the commissioner. An electronically filed report in accordance with section 38a-53a that is timely submitted to the National Association of Insurance Commissioners shall be deemed to have been submitted to the commissioner in accordance with this subdivision.

(d) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is domiciled and licensed in, or in the case of a United States branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance substantially similar to those applicable in this state and the assuming insurer or United States branch of an alien assuming insurer (1) maintains a surplus with regard to policyholders in an amount not less than twenty million dollars, and (2) submits to the authority of this state to examine its books and records. The requirement of subdivision (1) of this subsection shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(e) (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust that complies with the requirements of subdivisions (2) and (3) of this subsection in a qualified United States financial institution, as defined in section 38a-87, for the payment of the valid claims of its United States policyholders and ceding insurers, and their assigns and successors in interest. The assuming insurer shall (A) report annually to the commissioner information substantially the same as that required to be reported in the National Association of Insurance Commissioners' Annual Statement form by licensed insurers, to enable the commissioner to determine the sufficiency of the trust fund, and (B) submit to, and pay the expenses of, examination of its books and records by the commissioner.

(2) (A) No credit for reinsurance shall be allowed under subdivision (1) of this subsection unless:

(i) The form of the trust and any amendments to the trust have been approved by (I) the insurance regulatory official of the state of domicile of the trust, or (II) the insurance regulatory official of another state who has, pursuant to the terms of the trust instrument, accepted principal regulatory oversight of the trust;

(ii) The form of the trust and any amendments to the trust have been filed with the insurance regulatory officials of each state in which ceding insurer beneficiaries of the trust are domiciled; and

(iii) The trust instrument (I) provides that a contested claim shall be valid and enforceable upon the entry of a final order of a court of competent jurisdiction in the United States, and (II) vests legal



title to its assets in its trustees for the benefit of the assuming insurer's domestic and foreign policyholders and ceding insurers, and their assigns and successors in interest.

(B) (i) The trust shall be subject to examination by the commissioner and shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust.

(ii) Not later than March first, annually, the trustee of the trust shall (I) report to the commissioner, in writing, the balance and a list of the investments of the trust at the end of the preceding calendar year, and (II) certify to the commissioner the date of termination of the trust, if so planned, or that the trust will not expire prior to the following December thirty-first.

(3) (A) (i) In the case of a single assuming insurer, the trust shall consist of a trustee account with funds in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by domestic and foreign ceding insurers and, unless otherwise provided in subparagraph (A)(ii) of this subdivision, the assuming insurer shall maintain a trustee surplus of not less than twenty million dollars.

(ii) (I) The insurance regulatory official with principal oversight of the trust may authorize a reduction in the required trustee surplus.

(II) For a trust over which the commissioner has principal regulatory oversight, at any time after the assuming insurer has permanently discontinued for at least three full years underwriting new business secured by the trust, the commissioner may authorize a reduction in the required trustee surplus. Such reduction shall be made only after the commissioner finds, based on a risk assessment, that the reduced surplus level is adequate to protect domestic and foreign policyholders and ceding insurers and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required surplus shall not be reduced to an amount less than thirty per cent of the assuming insurer's liabilities attributable to reinsurance ceded by domestic and foreign ceding insurers covered by the trust.

(B) In the case of an assuming insurer that is a group including incorporated and individual unincorporated underwriters:

(i) (I) For reinsurance ceded under a reinsurance agreement with an inception date prior to January 1, 1993, and not amended or renewed after said date, the trust shall consist of a trustee account with funds in an amount not less than such underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; or



(II) For reinsurance ceded under a reinsurance agreement with an inception date on or after January 1, 1993, the trust shall consist of a trustee account with funds in an amount not less than such underwriters' several liabilities attributable to business ceded by domestic and foreign ceding insurers to any underwriter who is a member of the group; and

(ii) In addition to a trust specified in subparagraph (B)(i)(I) or (B)(i)(II) of this subdivision, the group shall maintain, for all years of account, a trustee surplus of which one hundred million dollars shall be held jointly for the benefit of domestic and foreign ceding insurers of any member of the group; and

(iii) The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and solvency control by the group's domiciliary insurance regulatory official as are the unincorporated members; and

(iv) Not later than ninety days after its financial statements are due to be filed with the group's domiciliary insurance regulatory official, the group shall provide to the commissioner an annual certification by the group's domiciliary insurance regulatory official of the solvency of each underwriter who is a member of the group or, if such certification is not provided by the group's domiciliary insurance regulatory official, financial statements prepared by independent public accountants of each such underwriter.

(C) In the case of a group of incorporated underwriters under common administration:

(i) The group shall be accredited and have continuously transacted an insurance business outside the United States for at least three years immediately prior to applying for accreditation;

(ii) The trust shall consist of a trustee account with funds in an amount not less than such underwriters' several liabilities attributable to business ceded by domestic and foreign ceding insurers pursuant to a reinsurance contract issued in the name of the group to any underwriter who is a member of the group;

(iii) In addition to such trust, the group shall maintain (I) an aggregate policyholders' surplus of not less than ten billion dollars, and (II) a joint trustee surplus of which one hundred million dollars shall be held jointly for the benefit of domestic and foreign ceding insurers of any member of the group as additional security for these liabilities; and

(iv) Not later than ninety days after its financial statements are due to be filed with the group's domiciliary insurance regulatory official, the group shall make available to the commissioner an annual certification by the group's domiciliary insurance regulatory official of the solvency of each underwriter who is a member of the group and financial statements prepared by independent public accountants of each such underwriter.



(f) (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is certified in accordance with section 38a-85a by the commissioner as a reinsurer in this state and such certified reinsurer maintains security in a form and amounts set forth in subdivision (3) of subsection (e) of this section or, for a multibeneficiary trust set forth in subdivision (2) of subsection (e) of section 38a-85a, in accordance with the provisions of subdivision (2) of subsection (e) of section 38a-85a.

(2) If the security is not sufficient with respect to obligations incurred by a certified reinsurer, the commissioner shall reduce the credit allowed by an amount proportionate to the deficiency and may impose further reductions in the credit allowed if the commissioner finds there is a material risk that such obligations will not be paid in full when due.

(g) (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer meeting each of the conditions set forth below.

(A) The assuming insurer must have its head office or be domiciled in, as applicable, and be licensed in a Reciprocal Jurisdiction. A "Reciprocal Jurisdiction" is a jurisdiction that meets one of the following:

(i) A non-U.S. jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and European Union, is a member state of the European Union. For purposes of this subsection, a "covered agreement" is an agreement entered into pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;

(ii) A U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or

(iii) A qualified jurisdiction, as determined by the commissioner pursuant to subsection (c) of section 38a-85a, which is not otherwise described in Subparagraph (a)(i) or (a)(ii) above and which meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified by the commissioner in regulations adopted in accordance with the provisions of chapter 54.

(B) The assuming insurer must have and maintain, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated according to the methodology of its domiciliary jurisdiction, in an amount to be set forth in regulation. If the assuming insurer is an association, including incorporated



and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, minimum capital and surplus equivalents (net of liabilities), calculated according to the methodology applicable in its domiciliary jurisdiction, and a central fund containing a balance in amounts to be set forth in regulation.

(C) The assuming insurer must have and maintain, on an ongoing basis, a minimum solvency or capital ratio, as applicable, which will be set forth in regulation. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, a minimum solvency or capital ratio in the Reciprocal Jurisdiction where the assuming insurer has its head office or is domiciled, as applicable, and is also licensed.

(D) The assuming insurer must agree and provide adequate assurance to the commissioner, in a form specified by the commissioner pursuant to regulation, as follows:

(i) The assuming insurer must provide prompt written notice and explanation to the commissioner if it falls below the minimum requirements set forth in Subparagraphs (b) or (c), or if any regulatory action is taken against it for serious noncompliance with applicable law;

(ii) The assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the commissioner as agent for service of process. The commissioner may require that consent for service of process be provided to the commissioner and included in each reinsurance agreement. Nothing in this provision shall limit, or in any way alter, the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;

(iii) The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained;

(iv) Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its resolution estate; and

(v) The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement which involves this state's ceding insurers, and agree to notify the ceding insurer and the commissioner and to provide security in an amount equal to one hundred percent (100%) of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions



of subsection (f) of section 38a-85, section 38a-85a and section 38a-86 and as specified in regulations adopted by the commissioner in accordance with the provisions of chapter 54.

(E) The assuming insurer or its legal successor must provide, if requested by the commissioner, on behalf of itself and any legal predecessors, certain documentation to the commissioner, as specified by the commissioner in regulation.

(F) The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements, pursuant to criteria set forth in regulation.

(G) The assuming insurer's supervisory authority must confirm to the commissioner on an annual basis, as of the preceding December 31 or at the annual date otherwise statutorily reported to the Reciprocal Jurisdiction, that the assuming insurer complies with the requirements set forth in Subparagraphs (B) and (C).

(H) Nothing in this provision precludes an assuming insurer from providing the commissioner with information on a voluntary basis.

(2) The commissioner shall timely create and publish a list of Reciprocal Jurisdictions.

(A) A list of Reciprocal Jurisdictions is published through the NAIC Committee Process. The commissioner's list shall include any Reciprocal Jurisdiction as defined under clauses (i) and (ii) of subparagraph (A) of subdivision (1) of this subsection, and shall consider any other Reciprocal Jurisdiction included on the NAIC list. The commissioner may approve a jurisdiction that does not appear on the NAIC list of Reciprocal Jurisdictions in accordance with criteria to be developed under regulations adopted by the commissioner in accordance with the provisions of chapter 54.

(B) The commissioner may remove a jurisdiction from the list of Reciprocal Jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a Reciprocal Jurisdiction, in accordance with a process set forth in regulations adopted by the commissioner pursuant to chapter 54, except that the commissioner shall not remove from the list a Reciprocal Jurisdiction as defined under clauses (i) and (ii) of subparagraph (A) of subdivision (1) of this subsection. Upon removal of a Reciprocal Jurisdiction from this list credit for reinsurance ceded to an assuming insurer which has its home office or is domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to sections 38a-85 to 38a-88, inclusive.

(3) The commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this subsection and to which cessions shall be granted credit in accordance with this subsection. The commissioner may add an assuming insurer to such list if an NAIC accredited jurisdiction has added such assuming insurer to a list of such assuming insurers or if, upon



initial eligibility, the assuming insurer submits the information to the commissioner as required under subparagraph (D) of subdivision (1) of this subsection and complies with any additional requirements that the commissioner may impose by regulation, except to the extent that they conflict with an applicable covered agreement.

(4) If the commissioner determines that an assuming insurer no longer meets one or more of the requirements under this subsection, the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this subsection in accordance with procedures set forth in regulation.

(a) While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with section 38a-86.

(b) If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the commissioner and consistent with the provisions of section 38a-86.

(5) If subject to a legal process of rehabilitation, liquidation or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding ceded liabilities.

(6) Nothing in this subsection shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by sections 38a-85 to 38a-88, inclusive or other applicable law or regulation.

(7) Credit may be taken under this subsection only for reinsurance agreements entered into, amended, or renewed on or after the effective date of the statute adding this subsection, and only with respect to losses incurred and reserves reported on or after the later of (i) the date on which the assuming insurer has met all eligibility requirements pursuant to subdivision (1) of subsection (g) of this section, and (ii) the effective date of the new reinsurance agreement, amendment, or renewal.

(a) This paragraph does not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under this subsection, as long as the reinsurance qualifies for credit under any other applicable provision of sections 38a-85 to 38a-88, inclusive.



(b) Nothing in this subsection shall authorize an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement.

(c) Nothing in this subsection shall limit, or in any way alter, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

[(g)] (h) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of subsection (b), (c), (d), (e), [or] (f) or (g) of this section but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by applicable law or regulation of that jurisdiction.

[(h)] (i) If the assuming insurer is not licensed, accredited or certified to transact insurance or reinsurance in this state, the credit permitted by subsection (d) or (e) of this section shall not be allowed unless the assuming insurer agrees (1) that in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall (A) submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, (B) comply with all requirements necessary to give such court jurisdiction, and (C) abide by the final decision of such court or any appellate court in the event of an appeal, and (2) to designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company. This provision is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if such an obligation is created in the agreement.

[(i)] (j) If the assuming insurer does not meet the requirements of subsection (b), (c), [or] (d) or (g) of this section, the credit permitted by subsection (e) or (f) of this section shall not be allowed unless the assuming insurer agrees to the following conditions in the trust instrument:

(1) Notwithstanding any provision of the trust instrument, if the trust contains an amount less than the amount required under subdivision (3) of subsection (e) of this section or if the grantor of the trust has been declared insolvent or placed in receivership, rehabilitation, liquidation or a similar proceeding under the laws of its state or country of domicile, the trustee shall comply with an order of the insurance regulatory official with principal regulatory oversight of the trust or with an order of a court of competent jurisdiction that directs the trustee to transfer all trust assets to the insurance regulatory official with principal regulatory oversight of the trust;

(2) The trust assets shall be distributed by and claims filed with and valued by the insurance regulatory official with principal regulatory oversight of the trust in accordance with the laws of the trust's state of domicile that are applicable to the liquidation of domestic insurance companies;



(3) The trustee shall distribute any trust assets or part thereof that are returned by the insurance regulatory official with principal regulatory oversight of the trust, based on such regulatory official's determination that such assets or part thereof are not necessary to satisfy the claims of domestic and foreign ceding insurers of the grantor of the trust, in accordance with the trust instrument; and

(4) The grantor of the trust waives any right otherwise available to the grantor under law that is inconsistent with subdivisions (1) to (3), inclusive, of this subsection.

[(j)] (k) (1) (A) The commissioner may suspend or revoke a reinsurer's accreditation or certification if, after notice and hearing, the commissioner finds such reinsurer no longer meets the requirements for accreditation or certification.

(B) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, as set forth in section 38a-85a, the commissioner may suspend the reinsurer's certification indefinitely, in lieu of revocation.

(2) The commissioner may suspend or revoke a reinsurer's accreditation or certification without notice and a hearing if:

(A) The reinsurer waives its right to a hearing;

(B) The commissioner's action is based on (i) regulatory action taken by a regulatory official of the reinsurer's state of domicile, or (ii) the voluntary surrender or termination of the reinsurer's eligibility to transact the business of insurance or reinsurance in its state of domicile or its primary certifying jurisdiction as described in subdivision (2) of subsection (a) of section 38a-85a; or

(C) The commissioner finds that immediate action is required to protect the public and a court of competent jurisdiction has not stayed the commissioner's action.

(3) (A) While a reinsurer's accreditation or certification is suspended, no credit shall be allowed under this section for a reinsurance contract issued or renewed by the reinsurer on or after the effective date of such suspension, except to the extent that such reinsurer's obligations under such contract are secured in accordance with the provisions of section 38a-86.

(B) If a reinsurer's accreditation or certification is revoked, no credit shall be allowed under this section on and after the effective date of such revocation, except to the extent that such reinsurer's obligations under such contract are secured in accordance with the provisions of subsection (e) of section 38a-85a or section 38a-86.

(4) A reinsurer whose certification has been suspended, revoked or voluntarily surrendered or is inactive shall be treated as a certified reinsurer required to secure one hundred per cent of its obligations, except that this requirement shall not apply to a reinsurer whose certification has been



suspended or is inactive if the commissioner continues to assign a high rating to such reinsurer pursuant to section 38a-85a.

(5) Any person aggrieved by the action of the commissioner in revoking or suspending an accreditation or a certification may appeal therefrom in accordance with the provisions of section 38a-19.

[(k)] (l) (1) A domestic ceding insurer shall manage its reinsurance recoverables in proportion to its own book of business. Such insurer shall notify the commissioner not later than thirty days after (A) reinsurance recoverables from any single assuming insurer or group of affiliated assuming insurers exceed fifty per cent of the domestic ceding insurer's last reported surplus to policyholders, or (B) the domestic ceding insurer determines that reinsurance recoverables from any single assuming insurer or group of affiliated assuming insurers are likely to exceed such limit. Any such notice shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(2) A ceding insurer shall manage its reinsurance program to ensure diversification. A domestic ceding insurer shall notify the commissioner not later than thirty days after (A) it has ceded to any single assuming insurer or group of affiliated assuming insurers more than twenty per cent of the domestic ceding insurer's gross written premiums in the prior calendar year, or (B) the domestic ceding insurer determines that the reinsurance ceded to any single assuming insurer or group of affiliated assuming insurers is likely to exceed such limit. Any such notice shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

Sec. 2. Subdivision (1) of subsection (a) of section 38a-85a of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2020):

(a)(1) To be eligible for certification by the commissioner as a reinsurer in this state for the purposes of section 38a-85, as amended by this act, an assuming insurer shall:

(A) Be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as set forth in subsection (c) of this section;

(B) Maintain minimum capital and minimum surplus requirements or their equivalent in an amount prescribed by the commissioner pursuant to regulations adopted in accordance with the provisions of chapter 54;

(C) Maintain financial strength ratings from two or more rating agencies that are deemed acceptable by the commissioner pursuant to regulations adopted in accordance with the provisions of chapter 54;



(D) Agree to submit to the jurisdiction of this state and appoint the commissioner as its agent for service of process in this state;

(E) Agree to provide security for one hundred per cent of such insurer's liabilities attributable to reinsurance ceded by domestic and foreign ceding insurers if the assuming insurer resists enforcement of a final judgment entered by a court in this or another state;

(F) Agree in the trust instrument, if the assuming insurer chooses to secure its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer in the form of a multibeneficiary trust, as set forth in subdivision (2) of subsection (e) of this section, that such assuming insurer shall, upon termination of any trust account of such trust, fund any deficiency of any other trust account of such trust out of the remaining surplus of the trust;

(G) Agree to meet applicable filing requirements as prescribed by the commissioner; and

(H) Comply with any other requirements deemed necessary for certification by the commissioner.

Sec. 3. Subsection (a) of section 38a-86 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

(a) A credit for an asset or a reduction in liability shall be allowed for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of section 38a-85, as amended by this act, in an amount not exceeding the liabilities carried by the ceding insurer. Such credit or reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder, if such security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in section 38a-87. Such security may be in the form of (1) cash, (2) securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing by the Purposes and Procedures Manual of said office, and qualifying as admitted assets, (3) clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified institution, that is effective not later than December thirty-first of the year for which filing is being made, and in the possession of or in trust for the ceding insurer on or before the filing date of its annual statement, provided letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent



failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs. As used in this subdivision, “qualified institution” means an institution that (A) is organized or, in the case of a United States office of a foreign banking organization, licensed, under the laws of the United States or any state thereof, (B) is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies, and (C) has been determined by the commissioner or the Securities Valuation Office of the National Association of Insurance Commissioners to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner, or (4) any other form of security acceptable to the commissioner.

Sec. 4. Section 38a-87 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2020):

For purposes of those provisions of sections 38a-85 to 38a-89, inclusive, as amended by this act, specifying those institutions that are eligible to act as a fiduciary of a trust, “qualified United States financial institution” means an institution that (1) is organized or, in the case of a United States branch or agency office of a foreign banking organization, licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers and (2) is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

Sec. 5. Section 38a-88 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2020):

(a) The commissioner shall adopt regulations in accordance with the provisions of chapter 54 to implement the provisions of sections 38a-85 to 38a-89, inclusive as amended by this act.

(b) (1) The commissioner may adopt regulations in accordance with the provisions of chapter 54 to establish, in addition to the requirements of sections 38a-85, as amended by this act, and 38a-86, requirements relating to or setting forth (A) the valuation of assets or reserve credits, (B) the circumstances under which credit will be reduced or eliminated, and (C) the amounts and forms of security supporting reinsurance agreements relating to (i) life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits, (ii) universal life insurance policies with provisions that permit a policyholder to keep such policy in force over a secondary guarantee period, (iii) variable annuities with guaranteed death or living benefits, (iv) long-term care insurance policies,



or (v) any other life insurance, health insurance or annuity products for which the National Association of Insurance Commissioners adopts model regulatory credit for reinsurance requirements.

(2) Any regulation adopted pursuant to subdivision (1) of this subsection that relates to policies described in subparagraph (C)(i) or (C)(ii) of subdivision (1) of this subsection may apply to reinsurance agreements that include such policies issued on or after January 1, 2015, and such policies issued prior to January 1, 2015, if risk pertaining to such policies is ceded, in whole or in part, in connection with such agreement on or after January 1, 2015.

(3) Any regulations adopted pursuant to subdivision (1) of this subsection [:] [(A) May] may require the ceding insurer, in calculating the amounts or forms of security supporting reinsurance agreements, to use the Valuation Manual, as defined in section 38a-78, in effect on the date such calculation is made, to the extent applicable.]; and (B)]

(4) Any regulation adopted pursuant to this subsection shall [Shall] not apply to cessions to an assuming insurer that: (A) meets the conditions set forth in subsection (g) of section 38a-85; or [(i) that] (B) is certified as a reinsurer in accordance with the provisions of section 38a-85a, or [(ii) (I) that] (C) maintains at least two hundred fifty million dollars in capital and surplus, determined in accordance with the National Association of Insurance Commissioners Accounting Practices and Procedures Manual, including all amendments adopted by the National Association of Insurance Commissioners and excluding the impact of any permitted or prescribed practices, and [(II)] (i) is licensed in at least twenty-six states, or (ii) is licensed in at least ten states and licensed or accredited in a total of at least thirty-five states.

(5) The authority to adopt regulations pursuant to this subsection does not limit the commissioner's general authority to adopt regulations pursuant to subsection (a) of this section.



Agency Legislative Proposal - 2020 Session

Document Name: 11042020_CID_OmnibusBill

(If submitting electronically, please label with date, agency, and title of proposal – 092620_SDE_TechRevisions)

State Agency: Connecticut Insurance Department (CID)

Liaison: Jim Carson

Phone: 860.297.3958

E-mail: Jim.Carson@ct.gov

Lead agency division requesting this proposal: CID Life & Health Division §§ 1, 2 & 4; Property & Casualty Division § 3; Market Conduct Division § 6.

Agency Analyst/Drafter of Proposal: § 1 & 2: Jon Arsenault; § 3 & 4: Michael Malesta; § 5: Jared Kosky; § 5: Tony Caporale

Title of Proposal: AAC The Insurance Department's Recommended Changes to the Insurance Statutes.

Statutory Reference: § 1: (NEW); § 2: 38a-816; § 3: (NEW); § 4: 38a-651; § 5: 38a-702e.

Proposal Summary:

Sections 1 & 2: makes it an unfair insurance practice for any insurer, health care center or fraternal benefit society doing business in this state to: (1) Request, require, purchase or use information obtained from an entity providing direct-to-consumer genetic testing without the informed written consent of the individual who has been tested. (2) Condition insurance rates, insurance coverage, renewal of coverage, benefits or other conditions of insurance for any individual on (i) any requirement or agreement of the individual to undergo genetic testing; or (ii) the results of genetic testing of a member of the individual's family unless the results are contained in the individual's medical record.

Sec. 3: Codifies the grounds for which an insurer may cancel a homeowners insurance policy and the process for which to notify the insured of such cancellation.

Sec. 4: Creates a new requirement that no credit life insurance or credit accident and health insurance policy issued in CT shall have a loss ratio of less than 50%.

Sec. 5: Requires that applicants for a producer license complete a course requiring not less than 20 hours for each line of authority applied for instead of the current 40 hours.



PROPOSAL BACKGROUND

◇ **Reason for Proposal**

Please consider the following, if applicable:

- (1) Have there been changes in federal/state/local laws and regulations that make this legislation necessary? **No.**
- (2) Has this proposal or something similar been implemented in other states? **Sec. 1(a) enacted in Maine, § 1(b) enacted in Vermont. Sec. 7 many state have continuing education requirements.** If yes, what is the outcome(s)? Are other states considering something similar this year?
- (3) Have certain constituencies called for this action? **No.**
- (4) What would happen if this was not enacted in law this session? **CID would pursue again. Also, Sec. 8: CT would be an outlier as it concerns uniformity standards.**

SECTIONS 1 & 2: Enhance consumer protections. Currently, there are no insurance statutes that govern the use of genetic testing for life insurance. For health insurance, CGS § 38a-816(19) prohibits insurers from refusing to insure or limiting coverage or charging a different rate because of genetic information indicating a predisposition to a disease. Also, Reg. § 38a-495a-19a prohibits using genetic information in underwriting Medicare supplement insurance. SECTION 3: CT currently does not have cancellation provisions in statute and administratively follows Insurance Services Office (“ISO”), an advisory organization. ISO continues to have less carrier members and their last revision was in 2011. As carriers continue to become more creative and innovative, more are going away from the ISO standard. CID is not getting lots of pushback from carriers, but it would be cleaner and simpler to have the provisions in statute, as opposed to attempting to enforce administratively. This will give CID the teeth it needs. This would bring regulatory parity with the cancellation provisions in statute for commercial lines and auto. It is prudent in a changing industry with a push towards innovation to have this in statute. SECTION 4: CT has no loss ratio requirements for either credit life insurance or credit accident and health insurance policies. As a result, CT has one of the lowest loss ratios in the nation for such policies, currently in the low to mid 20's. This proposal would create a new requirement that no credit life insurance or credit accident and health insurance policy issued in CT shall have a loss ratio of less than 50%. Such a requirement is consumer-friendly as it will have the effect of requiring insurers to lower premiums in order to comply with the loss ratio.

- ◇ **Origin of Proposal** **New Proposal** **Resubmission**

If this is a resubmission, please share:

- (1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration’s package?
- (2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?
- (3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?
- “ What was the last action taken during the past legislative session?

PROPOSAL IMPACT

◇ **AGENCIES AFFECTED** (please list for each affected agency)



<p>Agency Name: None</p> <p>Agency Contact (name, title, phone):</p> <p>Date Contacted:</p> <p>Approve of Proposal <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Talks Ongoing</p>
<p>Summary of Affected Agency's Comments</p> <p>N/A</p>
<p>Will there need to be further negotiation? <input type="checkbox"/> YES <input type="checkbox"/> NO</p>

◇ **FISCAL IMPACT** (please include the proposal section that causes the fiscal impact and the anticipated impact)

<p>Municipal (please include any municipal mandate that can be found within legislation)</p> <p>None</p>
<p>State</p> <p>None</p>
<p>Federal</p> <p>None</p>
<p>Additional notes on fiscal impact</p>

◇ **POLICY and PROGRAMMATIC IMPACTS** (Please specify the proposal section associated with the impact)

<p>SECTIONS 1 & 2: balances the interests of protecting consumers and the need for insurers to properly underwrite insurance. Violations of this legislation would be enforced as an unfair insurance practice under CGS § 38a-816.</p>

◇ **EVIDENCE BASE**

<p>What data will be used to track the impact of this proposal over time, and what measurable outcome do you anticipate? Is that data currently available or must it be developed? Please provide information on the measurement and evaluation plan. Where possible, those plans should include process and outcome components. Pew MacArthur Results First evidence definitions can help you to establish the evidence-base for your program and their Clearinghouse allows for easy access to information about the evidence base for a variety of programs.</p>



SECTIONS 1-3: CID will collect data to show insurer compliance with this legislation over time based on formal dispositions of CID administrative enforcement actions to enforce violations of this law. SECTION 4: CID will collect data as part of its ongoing review of credit life policies, certificates and riders and monitoring of this new loss ratio requirement. This legislation is expected to require insurers to lower premiums in order to comply with the 50% loss ratio. SECTIONS 5: In order to be able to take the required licensing test, the applicant will provide proof of completion of the courses to vendor providing licensee testing services to the Department. The CID will use number of applicants for a license to quantify the impact of the proposal. Such information is currently readily available to the CID.

[Insert fully drafted bill here](#)

AN ACT CONCERNING THE INSURANCE DEPARTMENT'S RECOMMENDED CHANGES TO THE INSURANCE STATUTES

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

Section 1. (NEW) (Effective October 1, 2020): (a) No insurer, health care center or fraternal benefit society doing business in this state shall, in connection with the issuance, withholding, extension or renewal of an insurance policy for life, credit life, disability, long-term care, accidental injury, specified disease, hospital indemnity or credit accident insurance or an annuity, request, require, purchase or use information obtained from an entity providing direct-to-consumer genetic testing without the informed written consent of the individual who has been tested.

(b) No insurer, health care center or fraternal benefit society doing business in this state shall condition insurance rates, the provision or renewal of insurance coverage or benefit or other conditions of insurance for any individual on (i) any requirement or agreement of the individual to undergo genetic testing; or (ii) the results of genetic testing of a member of the individual's family unless the results are contained in the individual's medical record.

Sec. 2. Section 38a-816 of the general statutes is amended by adding subdivision (23) as follows (Effective October 1, 2020):

(NEW) (23) Any violation of section 1 of this act.

Sec. 3. (NEW) (Effective July 1, 2020):



(a) After a policy of homeowners insurance subject to the requirements of sections 38a-663 to 38a-696, inclusive, has been in effect for sixty days or more, or after the effective date of a renewal policy, no insurer may cancel any such policy unless the cancellation is based on the occurrence, after the effective date of the policy or renewal, of one or more of the following conditions: (1) Nonpayment of premium; (2) discovery of fraud or material misrepresentation of fact by the insured in obtaining the policy which if known to us would have caused us not to issue the policy; or (3) physical changes in the property since the policy was issued which materially increases the hazard insured against. If the basis for cancellation is nonpayment of premium, at least ten days' advance notice shall be given and the insured may continue the coverage and avoid the effect of the cancellation by payment in full at any time prior to the effective date of cancellation. In all other cases, at least thirty days' advance written notice shall be given stating the date cancellation is to take effect. No notice of cancellation shall be required if such policy is transferred from an insurer to an affiliate of such insurer for another policy with no interruption of coverage and contains the same terms, conditions and provisions, including policy limits, as the transferred policy, except that the insurer to which the policy is transferred shall not be prohibited from applying its rates and rating plans at the time of renewal. No notice of cancellation shall be effective unless it is sent, by registered or certified mail or by mail evidenced by a United States Post Office certificate of mailing, or, if agreed between the insurer and the named insured, by electronic means evidenced by a delivery receipt, or delivered by the insurer to the named insured by the required date. Any such notice of cancellation shall state that excess premium (if not tendered by the insurer) shall be refunded to the named insured on demand. The named insured may cancel a policy of homeowners insurance at any time by notifying the insurer in writing of the date cancellation is to take effect.

(b) When a policy of homeowners insurance subject to the requirements of sections 38a-663 to 38a-696, inclusive, has been in effect for less than sixty days and is not a renewal policy, an insurer may cancel such policy for nonpayment of premium by providing at least ten days' advance notice of cancellation and the insured may continue coverage under such policy and avoid the effect of the cancellation by payment in full at any time prior to the effective date of cancellation. In all other cases where such policy has been in effect for less than sixty days and is not a renewal policy, an insurer shall give at least thirty days' advance written notice of cancellation, and the reason therefor, and the date such cancellation is to take effect. No notice of cancellation shall be required if such policy is transferred from an insurer to an affiliate of such insurer for another policy with no interruption of coverage and contains the same terms, conditions and provisions, including policy limits, as the transferred policy, except that the insurer to which the policy is transferred shall not be prohibited from applying its rates and rating plans at the time of renewal. No notice of cancellation shall be effective unless it is sent, by registered or certified mail or by mail evidenced by a United States Post Office certificate of mailing, or, if agreed between the insurer and the named insured, by electronic means evidenced by a delivery receipt, or delivered by the insurer to the named insured by the required date. Any such notice shall state that excess premium (if not tendered by the insurer) shall be refunded to the named insured on demand.



Sec. 4. Section 38a-651 of the general statutes is repealed and the following is submitted in lieu thereof:

(a) All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders delivered in this state shall be filed with the commissioner.

(b) The commissioner shall adopt regulations in accordance with the provisions of chapter 54, establishing a procedure for review of such policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders, and shall disapprove any such form at any time if the schedule of premium rates charged or to be charged is by reasonable assumptions excessive in relation to the benefits provided, as determined by benchmark loss ratio calculations, or if it contains provisions which are unjust, unfair, inequitable, misleading, deceptive or which encourage misrepresentation of the coverage or which are contrary to any provision of the insurance laws or of any rule or regulation promulgated thereunder. In the absence of an approved rate deviation, no credit life insurance or credit accident health insurance policy shall have a prima facie loss ratio of less than fifty per cent for any single life or joint life policy. For purposes of this section, loss ratio shall be defined as annual incurred claims (losses) divided by earned premiums.

(c) If the commissioner issues an order disapproving the use of such form, such insurer shall not thereafter issue or use such form. In such notice, the commissioner shall specify the reason for his order of disapproval. The provisions of section 38a-19 shall apply to any such order issued by the commissioner.

Sec. 5. Subsection (e) of section 38a-702e of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2020):

(e) Each applicant for an insurance producer license shall, before being admitted to an examination under subsection (a) of this section, prove to the satisfaction of the commissioner that such applicant meets one of the following prerequisites: (1) Successful completion of a course approved by the commissioner requiring not less than [forty] twenty hours for each line of insurance for which the applicant is applying to be licensed; or (2) equivalent experience or training as determined by the commissioner.



Agency Legislative Proposal - 2020 Session

Document Name: 11042020_CID_SuretyBailBonds

(If submitting electronically, please label with date, agency, and title of proposal – 092620_SDE_TechRevisions)

State Agency: Connecticut Insurance Department (CID)
Liaison: Jim Carson Phone: 860.297.3958 E-mail: Jim.Carson@ct.gov
Lead agency division requesting this proposal: CID Market Conduct Division.
Agency Analyst/Drafter of Proposal: Tony Caporale

Title of Proposal: An Act Concerning Surety Bail Bond Agents
Statutory Reference: § 1: CGS § 38a-660; § 2:CGS § 38a-660m.

Proposal Summary:

Sections 1: Makes the following changes: (1) the Department may cancel the surety bail bond license of any person that fails to pay the annual \$450 assessment fee by the due date; (2) For a change, from fiscal year to calendar year, in the date on which the funds remaining in the account that holds the assessment fee are swept into the General Fund; and (3) That the Commissioner may examine a licensee’s records not more often than once every three years, except for good cause.

Sec. 2: Requires that bail bond licensees complete continuing education requirements as a condition to the renewal of their license.

PROPOSAL BACKGROUND

◇ Reason for Proposal

<p><i>Please consider the following, if applicable:</i></p> <p>(1) <i>Have there been changes in federal/state/local laws and regulations that make this legislation necessary?</i> No.</p> <p>(2) <i>Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? Are other states considering something similar this year?</i></p> <p>(3) <i>Have certain constituencies called for this action?</i> No.</p> <p>(4) <i>What would happen if this was not enacted in law this session?</i> CID would pursue again. Also, §1: revocation of licenses would continue to be more costly and time consuming; funds established to audit agents would be prematurely sent to the General Fund.</p>

◇ **Origin of Proposal** **New Proposal** **Resubmission**



If this is a resubmission, please share:

- (1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration’s package?
- (2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal? **Yes**
- (3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation? **Bail bond agents associations**
- (4) What was the last action taken during the past legislative session? **The proposal, HB 7175, passed in the House but died in the Senate at end of session.**

PROPOSAL IMPACT

◇ **AGENCIES AFFECTED** (please list for each affected agency)

Agency Name: None
Agency Contact (name, title, phone):
Date Contacted:

Approve of Proposal **YES** **NO** **Talks Ongoing**

Summary of Affected Agency’s Comments
 N/A

Will there need to be further negotiation? **YES** **NO**

◇ **FISCAL IMPACT** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation)
 None

State
 Minimal

Federal
 None

Additional notes on fiscal impact

◇ **POLICY and PROGRAMMATIC IMPACTS** (Please specify the proposal section associated with the impact)

SECTIONS 1 & 2: Currently surety bond agents are required to pay a licensing fee to the Insurance Department by the 31st of January every year. The proposal establishes automatic



expiration of those licenses if such fee is not paid on time and includes a grace period. The Insurance Commissioner is required to annually notify surety bail bonds agents of this policy. The proposal also requires an establishment of continuing education requirements for licensed surety bail bond agents. The proposal also moves the sweep date of the surety bail bond agent examination account from the end of the fiscal year to the end of the calendar year. The Insurance Department has requested this change because licenses are renewed in January, and therefore the funding is only available for six months.

◇ EVIDENCE BASE

What data will be used to track the impact of this proposal over time, and what measurable outcome do you anticipate? Is that data currently available or must it be developed? Please provide information on the measurement and evaluation plan. Where possible, those plans should include process and outcome components. Pew MacArthur Results First [evidence definitions](#) can help you to establish the evidence-base for your program and their [Clearinghouse](#) allows for easy access to information about the evidence base for a variety of programs.

SECTIONS 1-2: CID will use data from its licensing and market conduct data base to evaluate the impact. Such data is currently available.

Insert fully drafted bill here

AN ACT CONCERNING SURETY BAIL BOND AGENTS

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

Section 1. Subsection (k) of section 38a-660 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

(k) (1) (A) To further the enforcement of this section and sections 38a-660b to 38a-660m, inclusive, as amended by this act, and to determine the eligibility of any licensee, the commissioner may[, as often as the commissioner deems necessary,] examine the books and records of any such licensee: (i) Not more frequently than once during any three-year time period; or (ii) more frequently as the commissioner deems necessary for good cause shown. Each person licensed as a surety bail bond agent in this state shall, on or before January thirty-first, annually, pay to the commissioner a fee of four hundred fifty dollars to cover the cost of examinations under this subsection.

(B) If such person fails to pay such fee on or before January thirty-first, annually, the license of such person shall automatically expire on the February first immediately following, provided the commissioner shall immediately reinstate any such license if the commissioner receives such fee not later than ten days after such expiration.



(C) The commissioner shall notify, not later than December fifteenth, annually, each person licensed as a surety bail bond agent in this state about such automatic expiration provision.

(2) The fees received by the commissioner pursuant to subdivision (1) of this subsection shall be dedicated to conducting the examinations under said subdivision (1) and shall be deposited in the account established under subdivision (3) of this subsection.

(3) There is established an account to be known as the "surety bail bond agent examination account", which shall be a separate, nonlapsing account within the Insurance Fund established under section 38a-52a. The account shall contain any moneys required by law to be deposited in the account and any such moneys remaining in the account at the [close of the fiscal] end of each calendar year shall be transferred to the General Fund.

Sec. 2. Section 38a-660m of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to (1) implement the provisions of section 38a-660, as amended by this act, and sections 38a-660b to 38a-660k, inclusive, and (2) establish continuing education requirements for persons licensed as surety bail bond agents in this state.



Agency Legislative Proposal - 2020 Session

Document Name: 11042020_CID_TechnicalBill

(If submitting electronically, please label with date, agency, and title of proposal – 092620_SDE_TechRevisions)

State Agency: Connecticut Insurance Department (CID)

Liaison: Jim Carson

Phone: 860.297.3958

E-mail: Jim.Carson@ct.gov

Lead agency division requesting this proposal: CID Legal Division § 1; Financial Regulation Division § 2; Business Office §§3 & 4.

Agency Analyst/Drafter of Proposal: Jon Arsenault, General Counsel

Title of Proposal: An Act Concerning the Insurance Department's Recommended Technical Changes to the General Statutes.

Statutory Reference: § 1: PA 19-117 § 230; § 2: CGS § 38a-8(d); § 3: CGS 19a-7p; § 4: CGS 38a-48.

Proposal Summary:

Section 1. Makes various technical changes to the Insurance Data Security Law enacted by PA 19-117 § 230, as revised by PA 19-196 § 8, as follows:

Subsection (b) – Definitions. Revised the following definitions: “Cybersecurity event” to reference “nonpublic” information stored on an information system; “Licensee” to include a fraternal benefit society, or an interlocal risk management agency, or an employers mutual association, and exclude a Commissioner of the Superior Court acting as a title agent; “Nonpublic information” to reference “electronic” data and information.

Subsection (c) – Information Security Program. Subdivision (1): Changed October 1, 2020 implementation date to “October 1, 2021”. Subdivision (6): Oversight of Third-Party Service Providers: Changed October 1, 2021 implementation date to “October 1, 2022”. Subdivision (7): Program Adjustments: added reference to the nonpublic information “in such licensee’s possession, custody or control. Subdivision (9): Annual Certification to Commissioner of Domiciliary State: added references to domestic “health care center or fraternal benefit society”; added provision to permit the domestic entities within the same holding company system to submit one statement on behalf of such entities; and added provision that the



domestic entities can meet record maintenance obligation under this subdivision through an affiliate. Subdivision (10): Exceptions: (A)(i) extended by one year the dates referenced; (A)(iv) revised safe harbor provision to expressly reference NY Reg. 500 instead of “a jurisdiction approved by the Commissioner pursuant to regulations...”

Subsection (e) – Notification of a Cybersecurity Event. Subdivision (1): Notification to Commissioner: changed “...no later than three business days after the date of the cybersecurity event...” to “no later than three business days after determining that a cybersecurity event has occurred...”; changed (1)(B) reference to “and” to “or”. Subdivision (2): Information to Be Provided to Commissioner: revised (2)(A)(iii) to reference how the cybersecurity event was discovered “and the date of its discovery”; revised (2)(A)(ix) to reference the number of total consumers “residing” in this state affected by the cybersecurity event “known by the licensee at the time of the report.” Subdivision (4) Notice Regarding Cybersecurity Events of Third-Party Service Providers: revised (4)(B) to replace “first becomes aware” to “has actual knowledge” of the event. Subdivision (6) Notice Regarding Cybersecurity Events of Insurers to Producers of Record: revised required to notify producer of record for the affected consumer “in a reasonable manner” not later than the time at which notice is provided to the consumer. Subdivision (g): Confidentiality: Subdivision (3) changed “in order to assist the commissioner in performing” to “in furtherance of”; added a new subdivision (6) concerning documents, materials or other information in the possession or control of the NAIC or a third-party consultant/vendor.

Section 2: CGS § 38a-8(d), concerns, among other things, the engagement of services providers to assist the Commissioner in the financial analysis of the insurer, the review of insurer license applications, and transactions within a holding company system. The proposal deletes the last sentence in subsection (d), which reads: “No duties of a person employed by the Insurance Department on November 1, 2002, shall be performed by such attorney, actuary, accountant or expert.”

Section 3: Adds a new late filing fee and penalty for other than good faith discrepancy in the number of lives reported by domestic health insurers and domestic health care centers to Insurance Commissioner for purposes of calculating the public health fee assessed by the Commissioner pursuant to C.G.S. § 19a-7p.

Section 4: (A) Allows domestic insurers and other domestic entities subject to assessment for the Insurance Fund to pay the entire assessment in one payment rather than in installments as required by C.G.S. § 38a-48. (B) Changes the dates for the assessment calculation and billing process to start Sept. 30th rather than July 31st; shifts the payment due date for installment



payments from Sept. 30th and Dec. 31st to Nov. 30th and January 31st, respectively; and makes adjustments to total assessments to reflect any credit or amount due from the preceding fiscal year rather than applying the adjustments to the first installment due.

PROPOSAL BACKGROUND

◇ Reason for Proposal

Please consider the following, if applicable:

- (1) Have there been changes in federal/state/local laws and regulations that make this legislation necessary? **No.**
- (2) Has this proposal or something similar been implemented in other states? **Yes with respect to § 1.** If yes, what is the outcome(s)? **Adoption of the NAIC Insurance Data Security Model Law.** Are other states considering something similar this year? **Eight states, including CT, have enacted the NAIC Insurance Data Security Model Law.**
- (3) Have certain constituencies called for this action? **Yes. NAIC, NCOIL, insurance industry;**
- (4) What would happen if this was not enacted in law this session? **CID would pursue legislation in the following session.**

◇ Origin of Proposal New Proposal Resubmission

If this is a resubmission, please share:

- (1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration’s package?
- (2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?
- (3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?
- (4) What was the last action taken during the past legislative session?

PROPOSAL IMPACT

◇ AGENCIES AFFECTED (please list for each affected agency)

<p>Agency Name: No agencies affected.</p> <p>Agency Contact (name, title, phone):</p> <p>Date Contacted: N/A</p> <p>Approve of Proposal <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Talks Ongoing</p>
<p>Summary of Affected Agency’s Comments</p> <p>N/A</p>
<p>Will there need to be further negotiation? <input type="checkbox"/> YES <input type="checkbox"/> NO</p>



◇ **FISCAL IMPACT** *(please include the proposal section that causes the fiscal impact and the anticipated impact)*

Municipal <i>(please include any municipal mandate that can be found within legislation)</i> None
State None. Concerning § 4, as these changes affect the manner of assessment and not the amount assessed, there is no fiscal impact.
Federal None
Additional notes on fiscal impact

◇ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

See below.

§ 1: The proposal will provide clarity and improvements to the recently enacted legislation which establishes standards for data security and the investigation of, and notification to, the Insurance Commissioner and consumers of a cybersecurity event (or data breach).

§ 2: Will give the CID more flexibility to access expertise to supplement its staff when needed in the area of financial regulation, and thereby assist the CID in maintaining its NAIC Accreditation.

§ 3: will create parity between the Public Health Fee and Vaccination Assessment by adding the same provision that currently exists in C.G.S. § 19a-7j, and will promote accurate reporting to the CID of insured lives.

§ 4: will improve efficiencies at the Insurance Department and allow the Department to better serve its constituencies. The process for assessing domestic companies for the expenditures of the CID (and other entities) requires that the Department send anticipated bills to carriers no later than July 31. The Department calculates the amount appropriated less the Insurance Fund balance as of the end of the most recent fiscal year (June 30). However, the Comptroller's Office is able to make GAAP adjustments in prior fiscal years as late as into the month of September. In recent years, this timing discrepancy has necessitate the need for the Department to add additional amounts into upcoming mid-year assessments. By pushing the date back to September 30th, this will allow the Department to



get a true fund balance post-GAAP adjustment and alleviate any issues related to discrepancies in calculating assessments.

◇ **EVIDENCE BASE**

What data will be used to track the impact of this proposal over time, and what measurable outcome do you anticipate? Is that data currently available or must it be developed? Please provide information on the measurement and evaluation plan. Where possible, those plans should include process and outcome components. Pew MacArthur Results First [evidence definitions](#) can help you to establish the evidence-base for your program and their [Clearinghouse](#) allows for easy access to information about the evidence base for a variety of programs.

§ 1: CID will collect data to show licensee compliance with this legislation over time based on formal dispositions of CID administrative enforcement actions to enforce violation of this law. §3. CID accounts will reflect any late filing fee and penalty imposed; the legislation will promote more accurate reporting than under current law. §4. CID accounts will reflect when companies elect to pay their assessment in one payment; assessment calculations required by this statute are anticipated to be more accurate throughout the assessment process.

Insert fully drafted bill here

AN ACT CONCERNING THE INSURANCE DEPARTMENT'S RECOMMENDED TECHNICAL CHANGES TO THE GENERAL STATUTES

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

Section 1. Section 230 of Public Act No. 19-117 is repealed and the following is substituted in lieu thereof (Effective October 1, 2020):

(a) Title. This section may be cited as the "Insurance Data Security Law".

(b) Definitions. For the purposes of this section:

(1) "Authorized individual" means an individual who is known to, and screened by, a licensee, and who is determined to be necessary and appropriate to have access to the nonpublic information that is held by the licensee and on such licensee's information systems.

(2) "Consumer" means an individual, including, but not limited to, an applicant, beneficiary, certificate holder, claimant, insured or policyholder, who is a resident of this state and whose nonpublic information is in a licensee's possession, custody or control.

(3) "Cybersecurity event" means an event resulting in any unauthorized access to, or disruption or misuse of, an information system or the **nonpublic** information stored thereon, except if: (A) The event involves the unauthorized acquisition of encrypted nonpublic information if the encryption process for



such information or encryption key to such information is not acquired, released or used without authorization; or (B) the event involves access of nonpublic information by an unauthorized person and the licensee determines that such information has not been used or released and has been returned or destroyed.

(4) "Encryption" means the transformation of data or information into a form that results in a low probability of assigning meaning to such data or information without the use of a protective process or key.

(5) "Information security program" means the administrative, technical and physical safeguards that a licensee uses to access, collect, distribute, process, protect, store, use, transmit, dispose of or otherwise handle nonpublic information.

(6) "Information system" means a discrete set of electronic information resources organized for the collection, processing, maintenance, use, sharing, dissemination or disposition of electronic **nonpublic** data or information, as well as any specialized system such as an industrial or process controls system, telephone switching and private branch exchange system, and environmental control system.

(7) "Licensee" means any person licensed, authorized to operate or registered, or required to be licensed, authorized to operate or registered, pursuant to the insurance laws of this state, **including a fraternal benefit society, or an interlocal risk management agency established under chapter 113a of the general statutes or an employers' mutual association conducting authorized under Part C of chapter 568 of the general statutes**, except for: **(A)** a purchasing group or a risk retention group chartered and licensed in another state; **[or] (B)** a **[licensee] person** that is acting as an assuming insurer and domiciled in another state or jurisdiction; **or (C) a commissioner of the superior court acting as a title agent as defined in section 38a-403.**

(8) "Multifactor authentication" means authentication through verification of at least two of the following types of authentication factors: (A) A knowledge factor, including, but not limited to, a password; (B) a possession factor, including, but not limited to, a token or text message on a mobile phone; or (C) an inheritance factor, including, but not limited to, a biometric characteristic.

(9) "Nonpublic information" means **electronic** data and information, other than publicly available information and **[information concerning]** a consumer's age or gender, that: (A) Concerns the business of a licensee and that, if accessed, disclosed, tampered with or used without authorization from the licensee, would have a material adverse impact on the business, operations or security of such licensee; (B) concerns a consumer and that, because such data or information contains a name, number, personal mark or other identifier, can be used to identify such consumer in combination with: (i) A Social Security number; (ii) a driver's license number or nondriver identification card number; (iii) an account, credit or debit card number; (iv) an access or security code, or a password, that would permit access to the consumer's financial account; or (v) a biometric record; or (C) is in a form or medium created by, or derived from, a health care provider or consumer and concerns: (i) The past, present or



future physical, mental or behavioral health or condition of a consumer or a member of a consumer's family; (ii) the provision of health care to a consumer; or (iii) payment for the provision of health care to a consumer.

(10) "Person" means any individual or any nongovernmental entity, including, but not limited to, any nongovernmental partnership, corporation, branch, agency or association.

(11) "Publicly available information" means data or information that: (A) (i) Must be disclosed to the general public pursuant to applicable law; or (ii) may be made available to the general public from government records or widely distributed media; and (B) a licensee reasonably believes, after investigation: (i) Is of a type that is available to the general public; and (ii) the consumer has not directed to be withheld from the general public, if the consumer may direct that such data or information be withheld from the general public pursuant to applicable law.

(12) "Risk assessment" means the risk assessment that each licensee is required to conduct pursuant to subdivision (3) of subsection (c) of this section.

(13) "Third-party service provider" means a person, other than a licensee, that: (A) Contracts with a licensee to maintain, process or store nonpublic information; or (B) is otherwise permitted to access nonpublic information through the person's provision of services to a licensee.

(c) Information Security Program. (1) Implementation of an information security program. Except as provided in subdivision (10) of this subsection, each licensee shall, not later than October 1, [2020] **2021**, develop, implement and maintain a comprehensive written information security program that is based on the licensee's risk assessment and contains [the] administrative, technical and physical safeguards for the protection of nonpublic information and such licensee's information systems. Each information security program shall be commensurate with the size and complexity of the licensee, the nature and scope of the licensee's activities, including, but not limited to, such licensee's use of third-party service providers, and the sensitivity of the nonpublic information used by such licensee or in such licensee's possession, custody or control.

(2) Objectives of Information Security Program. Except as provided in subdivision (10) of this subsection, each information security program developed, implemented and maintained by a licensee pursuant to subdivision (1) of this subsection shall:

(A) Be designed to:

(i) Protect the security and confidentiality of the nonpublic information and the security of the information system;

(ii) Protect against all threats and hazards to the security or integrity of nonpublic information and the information system; and



(iii) Protect against unauthorized access to, or use of, nonpublic information and minimize the likelihood of harm to any consumer; and

(B) Define, and periodically reevaluate, a schedule for retention of nonpublic information and a mechanism for the destruction of such information when such information no longer is needed.

(3) Risk Assessment. Except as provided in subdivision (10) of this subsection, each licensee shall:

(A) Designate one or more employees, an affiliate or an outside vendor designated to act on behalf of such licensee as the person responsible for such licensee's information security program;

(B) Identify reasonably foreseeable internal or external threats that could result in unauthorized access, transmission, disclosure, misuse, alteration or destruction of nonpublic information, including, but not limited to, the security of information systems that are, and nonpublic information that is, accessible to, or held by, third-party service providers;

(C) Assess the likelihood and potential damage of the threats identified pursuant to subparagraph (B) of this subdivision, taking into consideration the sensitivity of the nonpublic information;

(D) Assess the sufficiency of policies, procedures, information systems and other safeguards in place to manage the threats identified pursuant to subparagraph (B) of this subdivision by considering such threats in the following areas of such licensee's operations:

(i) Employee training and management;

(ii) Information systems, including, but not limited to, network and software design, as well as information classification, governance, processing, storage, transmission and disposal; and

(iii) Detection, prevention and response to attacks, intrusions or other systems failures;

(E) Implement information safeguards to manage the threats identified in such licensee's ongoing assessment; and

(F) Not less than annually, assess the effectiveness of such licensee's safeguards' key controls, systems and procedures.

(4) Risk Management. Except as provided in subdivision (10) of this subsection, each licensee shall, based on such licensee's risk assessment:

(A) Design such licensee's information security program to mitigate the identified risks, commensurate with the size and complexity of such licensee's activities, including, but not limited to, such licensee's use of third-party service providers, and the sensitivity of the nonpublic information used by such licensee or in such licensee's possession, custody or control.



(B) Determine which of the following security measures are appropriate and, if such measures are appropriate, implement such measures:

(i) Placement of access controls on such licensee's information systems, including, but not limited to, controls to authenticate and restrict access only to authorized individuals to protect against the unauthorized acquisition of nonpublic information;

(ii) Identification and management of the data, personnel, devices, systems and facilities that enable such licensee to achieve such licensee's business purposes in accordance with their relative importance to such licensee's business objectives and risk strategy;

(iii) Restriction of access to physical locations containing nonpublic information only to authorized individuals;

(iv) Protection, by encryption or other appropriate means, of all nonpublic information while such information is transmitted over an external network or stored on a laptop computer or other portable computing or storage device or medium;

(v) Adoption of secure development practices for in-house developed applications utilized by such licensee and procedures for evaluating, assessing or testing the security of externally developed applications utilized by such licensee;

(vi) Modification of such licensee's information system in accordance with such licensee's information security program;

(vii) Utilization of effective controls, which may include multifactor authentication procedures for any individual accessing nonpublic information;

(viii) Regular testing and monitoring of systems and procedures to detect actual and attempted attacks on, or intrusions into, information systems;

(ix) Inclusion of audit trails within the information security program that are designed to detect and respond to cybersecurity events, and designed to reconstruct material financial transactions sufficient to support the normal operations and obligations of the licensee;

(x) Implementation of measures to protect against the destruction, loss or damage of nonpublic information due to environmental hazards, including, but not limited to, fire and water, or other catastrophes or technological failures; and

(xi) Development, implementation and maintenance of procedures for the secure disposal of nonpublic information in any format.

(C) Include cybersecurity risks in such licensee's enterprise risk management process.



(D) Stay informed regarding emerging threats or vulnerabilities and utilize reasonable security measures when sharing information relative to the character of the sharing and the type of information shared.

(E) Provide such licensee's personnel with cybersecurity awareness training that is updated as necessary to reflect risks identified by such licensee in such licensee's risk assessment.

(5) Oversight by Board of Directors. Except as provided in subdivision (10) of this subsection, if a licensee has a board of directors, the board, or an appropriate committee of such board, shall, at a minimum:

(A) Require the licensee's executive management or its delegates to develop, implement and maintain such licensee's information security program.

(B) Require the licensee's executive management or its delegates to report, in writing and at least annually, the following information:

(i) The overall status of such licensee's information security program and such licensee's compliance with this section; and

(ii) Material matters related to such licensee's information security program, addressing issues such as risk assessment, risk management and control decisions, third-party service provider arrangements, results of testing, cybersecurity events or violations and management's responses thereto, and recommendations for changes in such information security program.

(C) If a licensee's executive management delegates any of its responsibilities under subparagraph (A) or (B) of this subdivision, it shall oversee the development, implementation and maintenance of the licensee's information security program prepared by the delegate or delegates, and shall receive a report from such delegate or delegates that satisfies the requirements established in subparagraph (B) of this subdivision.

(6) Oversight of Third-Party Service Provider Arrangements. Except as provided in subdivision (10) of this subsection:

(A) Each licensee shall exercise due diligence in selecting such licensee's third-party service providers; and

(B) Not later than October 1, ~~[2021]~~ **2022**, each licensee shall require each of such licensee's third-party service providers to implement appropriate administrative, technical and physical measures to protect and secure the information systems that are, and nonpublic information that is, accessible to, or held by, such licensee's third-party service providers.

(7) Program Adjustments. Except as provided in subdivision (10) of this subsection, each licensee shall monitor, evaluate and adjust, as appropriate, such licensee's information security program



consistent with any relevant changes in technology, the sensitivity of [such licensee's] **the** nonpublic information, **in such licensee's possession, custody or control**, internal or external threats to such information and such licensee's own changing business arrangements, including, but not limited to, changes stemming from mergers and acquisitions, alliances and joint ventures, outsourcing arrangements and changes to information systems.

(8) Incident Response Plan. (A) Except as provided in subdivision (10) of this subsection, each licensee shall, as part of such licensee's information security program, establish a written incident response plan that is designed to promptly respond to, and recover from, any cybersecurity event that compromises the confidentiality, integrity or availability of nonpublic information that is in such licensee's possession, custody or control, such licensee's information systems or the continuing functionality of any aspect of such licensee's business or operations.

(B) Each incident response plan shall address the following areas:

(i) The internal process for responding to a cybersecurity event;

(ii) The goals of such incident response plan;

(iii) The definition of clear roles, responsibilities and levels of decision-making authority;

(iv) External and internal communications;

(v) Information sharing;

(vi) Identification of requirements for the remediation of any identified weaknesses in information systems and associated controls;

(vii) Documentation and reporting regarding cybersecurity events and related incident response activities; and

(viii) Evaluation and revision, as necessary, of such incident response plan following each cybersecurity event.

(9) Annual Certification to Commissioner of Domiciliary State. Except as provided in subdivision (10) of this subsection, each insurer, **health care center or fraternal benefit society** domiciled in this state shall submit to the Insurance Commissioner a written statement, not later than February fifteenth, annually, certifying that such insurer is in compliance with the requirements set forth in this subsection. **Domestic insurers, health care centers or fraternal benefit societies within the same holding company system, as defined in section 38a-129, may submit one statement on their behalf.** Each insurer, **health care center or fraternal benefit society** shall maintain, for examination by the Insurance Department, all records, schedules and data supporting each statement that such insurer submits to the commissioner for a period of five years. To the extent an insurer, **health care center or fraternal benefit society** has identified areas, systems or processes that require material improvement, updating or



redesign, the insurer, health care center or fraternal benefit society shall document such identification and the remedial efforts planned and underway to address such areas, systems or processes. Such documentation must be available for inspection by the commissioner. The insurer, health care center or fraternal benefit society can meet this record maintenance obligation through an affiliate.

(10) Exceptions. (A) The following exceptions shall apply to this subsection:

(i) (I) During the period beginning on October 1, [2020] **2021**, and ending on September 30, [2021] **2022**, each licensee with fewer than twenty employees, which, for the purposes of this subclause, includes independent contractors having access to the nonpublic information used by such licensee or in such licensee's possession, custody or control, shall be exempt from this subsection; and

(II) On and after October 1, [2021] **2022**, each licensee with fewer than ten employees, which, for the purposes of this subclause, includes independent contractors having access to the nonpublic information used by such licensee or in such licensee's possession, custody or control, shall be exempt from this subsection;

(ii) Each licensee that is subject to the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, as amended from time to time, and has established and maintains an information security program pursuant to said act and the rules, regulations, procedures or guidelines established thereunder, shall be deemed to have satisfied the requirements of this subsection, provided such licensee is in compliance therewith and submits to the Insurance Commissioner a written statement certifying such licensee's compliance therewith;

(iii) Each employee, agent, representative or designee of a licensee, who is also a licensee, shall be exempt from the provisions of this subsection and need not develop its own information security program to the extent that such employee, agent, representative or designee is covered by the other licensee's information security program; and

(iv) Each licensee that has established and maintains an information security program in compliance with [the statutes, rules and regulations of a jurisdiction approved by the commissioner pursuant to regulations adopted pursuant to subsection (i) of this section] **N.Y. Comp. Codes R. & Regs. Title 23, section 500, Cybersecurity Requirements for Financial Services Companies, effective March 1, 2017,** shall be deemed to have satisfied the provisions of this subsection, provided such licensee is in compliance therewith and submits to the commissioner, not later than February fifteenth, annually, a written statement certifying such licensee's compliance therewith.

(B) In the event that a licensee ceases to qualify for an exception under this subdivision, the licensee shall have one hundred eighty days to comply with this subsection.

(d) Investigation of a Cybersecurity Event. (1) If a licensee learns that a cybersecurity event has, or may have, occurred, the licensee, or an outside vendor or service provider, or both, designated to act



on behalf of such licensee, shall conduct a prompt investigation in accordance with the provisions of this subsection.

(2) During any investigation conducted pursuant to subdivision (1) of this subsection, the licensee or the outside vendor or service provider, or both, shall, at a minimum and to the extent possible:

(A) Determine whether the cybersecurity event occurred; and

(B) If the cybersecurity event occurred:

(i) Assess the nature and scope of such cybersecurity event;

(ii) Identify the nonpublic information, if any, that may have been involved in such cybersecurity event; and

(iii) Perform or oversee reasonable measures to restore the security of the information systems compromised in such cybersecurity event in order to prevent further unauthorized acquisition, release or use of nonpublic information that is in the licensee's possession, custody or control.

(3) If a licensee learns that a cybersecurity event has, or may have, occurred in a system maintained by a third-party service provider, the licensee shall complete the steps listed in subdivision (2) of this subsection or confirm and document that the third-party service provider has completed such steps.

(4) Each licensee that is subject to the provisions of this subsection shall maintain records concerning each cybersecurity event for a period of at least five years from the date of such cybersecurity event, and shall produce such records to the Insurance Commissioner upon demand by the commissioner.

(e) Notification of a Cybersecurity Event. (1) Notification to the Commissioner. Each licensee shall notify the Insurance Commissioner that a cybersecurity event has occurred, as promptly as possible but in no event later than three business days [after the date of the cybersecurity event] **after determining that a cybersecurity event has occurred**, if:

(A) Such licensee is an insurer and this state is the insurer's state of domicile, or the licensee is an insurance producer, as defined in section 38a-702a of the general statutes, and this state is the insurance producer's home state, as defined in section 38a-702a of the general statutes; and

(B) The licensee reasonably believes that the nonpublic information involved in the cybersecurity event is of two hundred fifty or more consumers residing in this state [and] **or**:

(i) State or federal law requires that a notice concerning such cybersecurity event be provided to a government body, self-regulatory agency or another supervisory body; or

(ii) It is reasonably likely that such cybersecurity event will materially harm:

(l) A consumer residing in this state; or



(II) A material part of such licensee's normal operations.

(2) Information to Be Provided to Commissioner. (A) Each licensee that notifies the Insurance Commissioner pursuant to subdivision (1) of this subsection shall provide to the commissioner, in an electronic form prescribed by the commissioner, as much of the following information as possible:

(i) The date of the cybersecurity event;

(ii) A description of how the information was exposed, lost, stolen or breached, including, but not limited to, the specific roles and responsibilities of third-party service providers, if any;

(iii) How the cybersecurity event was discovered **and the date of its discovery**;

(iv) Whether any lost, stolen or breached information has been recovered and, if so, how such information was recovered;

(v) The identity of the source of the cybersecurity event;

(vi) Whether such licensee has filed a police report or notified any regulatory, government or law enforcement agency, and, if so, when such licensee filed such report or provided such notice;

(vii) A description of the specific types of exposed, lost, stolen or breached information, including, for example, specific types of medical information, financial information or information allowing identification of a consumer;

(viii) The period during which each information system that was compromised by the cybersecurity event was compromised by such cybersecurity event;

(ix) The number of total consumers **residing** in this state affected by the cybersecurity event **known by the licensee at the time of the report**;

(x) The results of an internal review identifying any lapse in automated controls or internal procedures, or confirming that all such controls and procedures were followed;

(xi) A description of any efforts being undertaken to remediate the situation that permitted the cybersecurity event to occur;

(xii) A copy of the licensee's privacy policy and a statement outlining the steps the licensee will take to investigate and notify consumers affected by the cybersecurity event; and

(xiii) The name of a contact person who is both familiar with the cybersecurity event and authorized to act for the licensee.



(B) Each licensee that provides information to the Insurance Commissioner pursuant to subparagraph (A) of this subdivision shall have a continuing obligation to update and supplement such information.

(3) Notification to Consumers. Each licensee shall comply with all applicable provisions of section 36a-701b of the general statutes, and provide to the Insurance Commissioner a copy of the notice that such licensee sends to consumers pursuant to said section, if any, if such licensee is required to notify the commissioner pursuant to subdivision (1) of this subsection.

(4) Notice Regarding Cybersecurity Events of Third-Party Service Providers. (A) In the case of a cybersecurity event involving a **an information** system maintained by a third-party service provider, each licensee affected by the event shall treat such event, if the licensee [as] is aware of such event, as such licensee would treat such event under subdivision (1) of this subsection.

(B) The computation of a licensee's deadlines shall begin on the day after a third-party service provider notifies the licensee of the cybersecurity event or such licensee otherwise [first becomes aware] **has actual knowledge** of such event, whichever is sooner.

(C) Nothing in this section shall prevent or abrogate an agreement between a licensee and another party to fulfill any of the investigation requirements imposed under subsection (d) of this section or the notice requirements imposed under this subsection.

(5) Notice Regarding Cybersecurity Events of Reinsurers to Insurers. (A) (i) In the case of a cybersecurity event involving nonpublic information that is used by a licensee that is acting as an assuming insurer or in the possession, custody or control of a licensee that is acting as an assuming insurer and that does not have a direct contractual relationship with the affected consumers, the assuming insurer shall notify its affected ceding insurers and the insurance regulatory official of its state of domicile not later than seventy-two hours after such assuming insurer discovered that the cybersecurity event had occurred.

(ii) Each ceding insurer that has a direct contractual relationship with the consumers affected by a cybersecurity event shall fulfill the consumer notification requirements imposed under section 36a-701b of the general statutes and any other notification requirements relating to a cybersecurity event imposed under this section.

(B) (i) In the case of a cybersecurity event involving nonpublic information that is in the possession, custody or control of a third-party service provider of a licensee, when the licensee is acting as an assuming insurer, including an assuming insurer that is domiciled in another state or jurisdiction, the assuming insurer shall notify its affected ceding insurers and the insurance regulatory official of its state of domicile not later than seventy-two hours after such assuming insurer received notice from the third-party service provider disclosing that the cybersecurity event occurred.



(ii) Ceding insurers that have a direct contractual relationship with affected consumers shall fulfill the consumer notification requirements imposed under section 36a-701b of the general statutes and any other notification requirements relating to a cybersecurity event imposed under this section.

(6) Notice Regarding Cybersecurity Events of Insurers to Producers of Record. If a cybersecurity event involves nonpublic information that is in the possession, custody or control of a licensee that is an insurer, or a third-party service provider for a licensee that is an insurer, and for which a consumer who is affected by the cybersecurity event accessed such licensee's services through an independent insurance producer, such licensee shall notify the producer of record for such consumer of the occurrence of such cybersecurity event **in a reasonable manner** not later than the time at which notice is provided to such consumer, provided such licensee has the current producer of record information for such individual consumer.

(f) Power of Commissioner. (1) The Insurance Commissioner shall have power to examine and investigate into the affairs of a licensee to determine whether the licensee is, or has been, engaged in conduct in this state that violates the provisions of this section. The commissioner's power under this subsection is in addition to the commissioner's powers under sections 38a-14 to 38a-16, inclusive, of the general statutes. Any such investigation or examination shall be conducted pursuant to said sections, if applicable.

(2) Whenever the Insurance Commissioner has reason to believe that a licensee is, or has been, engaged in conduct in this state that violates the provisions of this section, the commissioner shall issue and serve upon the licensee:

(A) A statement setting forth such violation; and

(B) A notice of a hearing to be held at a time and place fixed in such notice, which time shall not be less than thirty calendar days after the date of service of such notice.

(3) (A) The licensee shall, at the time and place fixed for the hearing in the notice issued and served upon such licensee pursuant to subdivision (2) of this subsection, have an opportunity to be heard and show cause why an order should not be entered by the Insurance Commissioner:

(i) Enforcing the provisions of this section; or

(ii) Suspending, revoking or refusing to reissue or renew any license, certificate of registration or authorization to operate the Insurance Commissioner has issued, or may issue, to such licensee.

(B) The Insurance Commissioner may, after holding a hearing pursuant to subparagraph (A) of this subdivision and in addition to or in lieu of suspending, revoking or refusing to reissue or renew any license, certificate of registration or authorization to operate the commissioner has issued, or may issue, to the licensee, impose on such licensee a civil penalty of not more than fifty thousand dollars for each violation of the provisions of this section. The commissioner may bring a civil action to recover



the amount of any civil penalty that the commissioner imposes on a licensee pursuant to this subparagraph.

(g) Confidentiality. (1) (A) Except as provided in subparagraph (B) of this subdivision, documents, materials and other information in the possession, custody or control of the Insurance Department and furnished to the department by a licensee, or an employee or agent of a licensee acting on behalf of the licensee, pursuant to subdivision (9) of subsection (c) of this section or subparagraph (A)(ii), (A)(iii), (A)(iv), (A)(v), (A)(viii), (A)(x) or (A)(xi) of subdivision (2) of subsection (e) of this section, or obtained by the commissioner in an investigation or examination conducted pursuant to subsection (f) of this section, shall be confidential by law, privileged, not subject to disclosure under section 1-210 of the general statutes, not subject to subpoena, and not subject to discovery or admission into evidence in any private civil action.

(B) The Insurance Commissioner is authorized to use all documents, materials and other information in furtherance of any regulatory or legal actions brought as a part of the commissioner's duties.

(2) Neither the Insurance Commissioner nor any person acting under the authority of the commissioner who receives documents or materials that are, or other information that is, subject to the provisions of subdivision (1) of this subsection shall be permitted or required to testify in any private civil action concerning such documents, materials or other information.

(3) The Insurance Commissioner, in [order to assist the commissioner in performing] **furtherance of** the commissioner's duties under this section, may:

(A) Share documents, materials and other information, including, but not limited to, confidential and privileged documents, materials and other information subject to subdivision (1) of this subsection, with other state, federal and international regulatory agencies, the National Association of Insurance Commissioners and the affiliates and subsidiaries of said association, the Attorney General and other state, federal or international law enforcement authorities, provided the recipient of such documents, materials or other information agrees, in writing, to maintain the confidentiality and privileged status of such documents, materials or other information;

(B) Receive documents, materials and other information, including, but not limited to, otherwise confidential and privileged documents, materials and other information, from the National Association of Insurance Commissioners and the affiliates and subsidiaries of said association, the Attorney General and other domestic or foreign regulatory or law enforcement officials, provided the commissioner shall maintain as confidential and privileged all documents, materials and other information that the commissioner receives with notice or an understanding that such documents or materials are, or such other information is, confidential or privileged under the laws of the jurisdiction that is the source of such documents, materials or other information;



(C) Share documents, materials and other information subject to subdivision (1) of this subsection with a third-party consultant or vendor, provided the third-party consultant or vendor agrees, in writing, to maintain the confidentiality and privileged status of such documents, materials and other information; and

(D) Enter into agreements governing the sharing and use of documents, materials and other information, provided such agreements are consistent with the provisions of this subsection.

(4) No waiver of any applicable privilege or claim of confidentiality in a document, material or other information shall occur as a result of any disclosure of the document, material or other information to the Insurance Commissioner pursuant to this section, or as a result of any sharing of such document, material or other information authorized under subdivision (3) of this subsection.

(5) Nothing in this section shall prohibit the Insurance Commissioner from releasing final, adjudicated actions that are open to public inspection pursuant to section 1-210 of the general statutes to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners or the affiliates or subsidiaries of said association.

(6) Documents, materials or other information in the possession or control of the National Association of Insurance Commissioners or a third-party consultant or vendor pursuant to subdivision (9) of subsection (c) of this section or subparagraph (A)(ii), (A)(iii), (A)(iv), (A)(v), (A)(viii), (A)(x) or (A)(xi) of subdivision (2) of subsection (e) of this section or obtained by the commissioner in an investigation or examination conducted pursuant to subsection (f) of this section, shall be confidential by law and privileged, shall not be subject to freedom of information requests and shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

(h) Private Right of Action. Nothing in this section shall be construed to create or imply a private right of action, or to affect or limit a private right of action that exists without regard to this section.

(i) Regulations. The Insurance Commissioner may adopt such regulations, in accordance with chapter 54 of the general statutes, as are necessary to carry out the provisions of this section.

Sec. 2. Subsection (d) of section 38a-8 of the general statutes is repealed and the following is substituted in lieu thereof:

(d) The commissioner shall develop a program of periodic review to ensure compliance by the Insurance Department with the minimum standards established by the National Association of Insurance Commissioners for effective financial surveillance and regulation of insurance companies operating in this state. The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, pertaining to the financial surveillance and solvency regulation of insurance companies



and health care centers as are reasonable and necessary to obtain or maintain the accreditation of the Insurance Department by the National Association of Insurance Commissioners. The commissioner shall maintain as confidential any confidential documents or information received from the National Association of Insurance Commissioners, or the International Association of Insurance Supervisors, or any documents or information received from state or federal insurance, banking or securities regulators or similar regulators in a foreign country that are confidential in such jurisdictions. The commissioner may share any information, including confidential information, with the National Association of Insurance Commissioners, the International Association of Insurance Supervisors, or state or federal insurance, banking or securities regulators or similar regulators in a foreign country, provided the commissioner determines that such entities agree to maintain the same level of confidentiality in their jurisdictions as is available in this state. At the expense of a domestic, alien or foreign insurer, the commissioner may engage the services of attorneys, actuaries, accountants and other experts not otherwise part of the commissioner's staff as may be necessary to assist the commissioner in the financial analysis of the insurer, the review of the insurer's license applications, and the review of transactions within a holding company system involving an insurer domiciled in this state. [No duties of a person employed by the Insurance Department on November 1, 2002, shall be performed by such attorney, actuary, accountant or expert.]

Sec. 3. Section 19a-7p of the general statutes is amended by adding subsection (g), as follows (Effective July 1, 2020):

(NEW) (g) Any insurer or health care center that fails to file the report required under subdivision (3) of subsection (a) shall pay a late filing fee of one hundred dollars per day for each day from the date such report was due. The Insurance Commissioner may require an insurer or health care center subject to this section to produce the records in its possession, and may require any other person to produce the records in such person's possession, that were used to prepare such report, for said commissioner's or said commissioner's designee's examination. If said commissioner determines there is other than a good faith discrepancy between the actual number of insured or enrolled lives that should have been reported under subdivision (3) of subsection (a) and the number actually reported, such insurer or health care center shall pay a civil penalty of not more than fifteen thousand dollars for each report filed for which said commissioner determines there is such a discrepancy.

Sec. 4. Section 38a-48 of the general statutes is repealed and the following is inserted in lieu thereof (Effective July 1, 2020):



(a) On or before June thirtieth, annually, the Commissioner of Revenue Services shall render to the Insurance Commissioner a statement certifying the amount of taxes or charges imposed on each domestic insurance company or other domestic entity under chapter 207 on business done in this state during the preceding calendar year. The statement for local domestic insurance companies shall set forth the amount of taxes and charges before any tax credits allowed as provided in subsection (a) of section 12-202.

(b) On or before [July thirty-first] **September thirtieth**, annually, the Insurance Commissioner and the Office of the Healthcare Advocate shall render to each domestic insurance company or other domestic entity liable for payment under section 38a-47: (1) A statement that includes (A) the amount appropriated to the Insurance Department, the Office of the Healthcare Advocate and the Office of Health Strategy from the Insurance Fund established under section 38a-52a for the fiscal year beginning July first of the same year, (B) the cost of fringe benefits for department and office personnel for such year, as estimated by the Comptroller, (C) the estimated expenditures on behalf of the department and the offices from the Capital Equipment Purchase Fund pursuant to section 4a-9 for such year, not including such estimated expenditures made on behalf of the Health Systems Planning Unit of the Office of Health Strategy, and (D) the amount appropriated to the Department of Rehabilitation Services for the fall prevention program established in section 17a-303a from the Insurance Fund for the fiscal year; (2) a statement of the total taxes imposed on all domestic insurance companies and domestic insurance entities under chapter 207 on business done in this state during the preceding calendar year; and (3) the proposed assessment against that company or entity, calculated in accordance with the provisions of subsection (c) of this section, provided for the purposes of this calculation the amount appropriated to the Insurance Department, the Office of the Healthcare Advocate and the Office of Health Strategy from the Insurance Fund plus the cost of fringe benefits for department and office personnel and the estimated expenditures on behalf of the department and the office from the Capital Equipment Purchase Fund pursuant to section 4a-9, not including such expenditures made on behalf of the Health Systems Planning Unit of the Office of Health Strategy shall be deemed to be the actual expenditures of the department and the office, and the amount appropriated to the Department of Rehabilitation Services from the Insurance Fund for the fiscal year for the fall prevention program established in section 17a-303a shall be deemed to be the actual expenditures for the program.

(c) (1) The proposed assessments for each domestic insurance company or other domestic entity shall be calculated by (A) allocating twenty per cent of the amount to be paid under section 38a-47 among the domestic entities organized under sections 38a-199 to 38a-209, inclusive, and 38a-214 to 38a-225, inclusive, in proportion to their respective shares of the total taxes and charges imposed under chapter 207 on such entities on business done in this state during the preceding calendar year, and (B) allocating eighty per cent of the amount to be paid under section 38a-47 among all domestic insurance companies and domestic entities other than those organized under sections 38a-199 to 38a-209, inclusive, and 38a-214 to 38a-225, inclusive, in proportion to their respective shares of the total



taxes and charges imposed under chapter 207 on such domestic insurance companies and domestic entities on business done in this state during the preceding calendar year, provided if there are no domestic entities organized under sections 38a-199 to 38a-209, inclusive, and 38a-214 to 38a-225, inclusive, at the time of assessment, one hundred per cent of the amount to be paid under section 38a-47 shall be allocated among such domestic insurance companies and domestic entities.

(2) When the amount any such company or entity is assessed pursuant to this section exceeds twenty-five per cent of the actual expenditures of the Insurance Department, the Office of the Healthcare Advocate and the Office of Health Strategy from the Insurance Fund, such excess amount shall not be paid by such company or entity but rather shall be assessed against and paid by all other such companies and entities in proportion to their respective shares of the total taxes and charges imposed under chapter 207 on business done in this state during the preceding calendar year, except that for purposes of any assessment made to fund payments to the Department of Public Health to purchase vaccines, such company or entity shall be responsible for its share of the costs, notwithstanding whether its assessment exceeds twenty-five per cent of the actual expenditures of the Insurance Department, the Office of the Healthcare Advocate and the Office of Health Strategy from the Insurance Fund. The provisions of this subdivision shall not be applicable to any corporation which has converted to a domestic mutual insurance company pursuant to section 38a-155 upon the effective date of any public act which amends said section to modify or remove any restriction on the business such a company may engage in, for purposes of any assessment due from such company on and after such effective date.

(d) For purposes of calculating the amount of payment under section 38a-47, as well as the amount of the assessments under this section, the "total taxes imposed on all domestic insurance companies and other domestic entities under chapter 207" shall be based upon the amounts shown as payable to the state for the calendar year on the returns filed with the Commissioner of Revenue Services pursuant to chapter 207; with respect to calculating the amount of payment and assessment for local domestic insurance companies, the amount used shall be the taxes and charges imposed before any tax credits allowed as provided in subsection (a) of section 12-202.

(e) On or before September thirtieth, annually, for each fiscal year ending prior to July 1, 1990, the Insurance Commissioner and the Healthcare Advocate, after receiving any objections to the proposed assessments and making such adjustments as in their opinion may be indicated, shall assess each such domestic insurance company or other domestic entity an amount equal to its proposed assessment as so adjusted. Each domestic insurance company or other domestic entity shall pay to the Insurance Commissioner on or before October thirty-first an amount equal to fifty per cent of its assessment adjusted to reflect any credit or amount due from the preceding fiscal year as determined by the commissioner under subsection (g) of this section. Each domestic insurance company or other domestic entity shall pay to the Insurance Commissioner on or before the following April thirtieth, the remaining fifty per cent of its assessment.



(f) On or before [September] **November** first, annually, for each fiscal year ending after July 1, 1990, the Insurance Commissioner and the Healthcare Advocate, after receiving any objections to the proposed assessments and making such adjustments as in their opinion may be indicated, **and making any further adjustments to reflect any credit or amount due from the preceding fiscal year as determined by the commissioner under subsection (g) of this section,** shall assess each such domestic insurance company or other domestic entity an amount equal to its proposed assessment as so adjusted. Each domestic insurance company or other domestic entity shall pay to the Insurance Commissioner (1) [on or before June 30, 1990, and on or before June thirtieth annually thereafter, an estimated payment against its assessment for the following year equal to twenty-five per cent of its assessment for the fiscal year ending such June thirtieth, (2) on or before September] **on or before November** thirtieth, annually, twenty-five per cent of its assessment [adjusted to reflect any credit or amount due from the preceding fiscal year as determined by the commissioner under subsection (g) of this section, and (3)-], **(2)** on or before the following [December] **January** thirty-first, **annually, twenty-five per cent its assessment, (3) [and]** March thirty-first, annually, **twenty-five per cent its assessment,** [each domestic insurance company or other domestic entity shall pay to the Insurance Commissioner the remaining fifty per cent of its proposed assessment to the department in two equal installments] **and on or before June thirtieth annually thereafter, an estimated payment against its assessment for the following year equal to twenty-five per cent of its assessment for the fiscal year ending such June thirtieth. Any such domestic insurance company or other domestic entity may, in its discretion, pay to the Insurance Commissioner the entire assessment required by this subsection in one payment when the first installment is due.**

(g) If the actual expenditures for the fall prevention program established in section 17a-303a are less than the amount allocated, the Commissioner of Rehabilitation Services shall notify the Insurance Commissioner and the Healthcare Advocate. Immediately following the close of the fiscal year, the Insurance Commissioner and the Healthcare Advocate shall recalculate the proposed assessment for each domestic insurance company or other domestic entity in accordance with subsection (c) of this section using the actual expenditures made during the fiscal year by the Insurance Department, the Office of the Healthcare Advocate and the Office of Health Strategy from the Insurance Fund, the actual expenditures made on behalf of the department and the offices from the Capital Equipment Purchase Fund pursuant to section 4a-9, not including such expenditures made on behalf of the Health Systems Planning Unit of the Office of Health Strategy, and the actual expenditures for the fall prevention program. On or before [July thirty-first] **November thirtieth,** the Insurance Commissioner and the Healthcare Advocate shall render to each such domestic insurance company and other domestic entity a statement showing the difference between their respective recalculated assessments and the amount they have previously paid. On or before [August] **October** thirty-first, the Insurance



Commissioner and the Healthcare Advocate, after receiving any objections to such statements, shall make such adjustments which in their opinion may be indicated, and shall render an adjusted assessment, if any, to the affected companies.

(h) If any assessment is not paid when due, a penalty of twenty-five dollars shall be added thereto, and interest at the rate of six per cent per annum shall be paid thereafter on such assessment and penalty.

(i) The Insurance Commissioner shall deposit all payments made under this section with the State Treasurer. On and after June 6, 1991, the moneys so deposited shall be credited to the Insurance Fund established under section 38a-52a and shall be accounted for as expenses recovered from insurance companies.