



Agency Legislative Proposal - 2022 Session

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(If submitting electronically, please label with date, agency, and title of proposal – 092621_SDE_TechRevisions)

State Agency: Connecticut Insurance Department (CID)

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

Agency Analyst/Drafter of Proposal: Jared Kosky, General Counsel; Jennifer Dowty, Counsel; and Kathy Belfi, Director Financial Regulation

Title of Proposal: An Act Concerning the Insurance Holding Company Act

Statutory Reference: C.G.S. sections 38a-129, 38a-135 to 38a-137, inclusive.

Proposal Summary:

Adopts the most recent amendments made by the NAIC to the Model Insurance Holding Company Act concerning group capital calculation for the purpose of group solvency supervision, liquidity stress test for macroprudential surveillance, and the continuation of essential services and functions to an insurer in receivership by affiliated entities and further clarifies ownership of data and records of the insurer. In addition, updates the definition of an internationally active insurance group and makes other technical changes.

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?*
- (2) *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?*
- (3) *Have certain constituencies called for this action?*
- (4) *What would happen if this was not enacted in law this session?*

This proposal adopts the most recent amendments made by the NAIC to the Model Insurance Holding Company Act concerning group capital calculation (GCC) for the purpose of group solvency supervision, liquidity stress test (LST) for macroprudential surveillance, and the continuation of essential services and functions to an insurer in receivership by affiliated entities and further clarify ownership of data and records of the insurer. States with insurance groups impacted by the Covered Agreement, such as Connecticut, are strongly encouraged to adopt the GCC provision prior to November 7, 2022, and the LST provisions as soon as possible. The GCC is intended to meet the requirement that the states have a “worldwide group capital calculation” in place by November 7, 2022 in order to avoid the EU from



imposing a group capital assessment or requirement at the level of the worldwide parent undertaking. Failure of any state to do so for any U.S. group operating in such jurisdiction raises the potential for any supervisor in the EU or UK to impose its own group capital calculation (e.g., Solvency II capital requirements) on that group and therefore all of the U.S. insurers within that group. Both GCC and LST will likely also become NAIC accreditation standards. These amendments adopted by the NAIC in 2021 are currently being proposed and implemented in numerous other states, specifically those states, like Connecticut, that are worldwide supervisors of an insurance group that has affiliates in either the EU or the UK. The proposal also makes further technical changes including updating the definition of an internationally active insurance group by clarifying additional sources of funds to be included as part of gross written premiums.

◇ **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?*

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PROPOSAL IMPACT

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

Agency Name: N/A

Agency Contact (name, title, phone): [Click here to enter text.](#)

Date Contacted: [Click here to enter text.](#)

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)

No impact.

State

No impact.

Federal

No impact.

Additional notes on fiscal impact

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

The CID anticipates that the proposed changes dealing with GCC and the LST 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.

With regards to GCC and LST, the CID will continue to monitor compliance consistent with its existing financial oversight of insurers via financial analysis and financial examination functions.

[Insert fully drafted bill here](#)

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AN ACT CONCERNING THE INSURANCE HOLDING COMPANY ACT

Section 1. Section 38a-129 of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2022)



Sec. 38a-129. (Formerly Sec. 38-39a). Purpose. Definitions. Applicability to captive insurance companies. (a) It shall be the purpose of sections 38a-129 to 38a-140, inclusive, to safeguard the financial security of Connecticut domestic insurance companies by empowering the Insurance Commissioner to supervise the activities of insurance companies doing business within this state which are affiliated with an insurance holding company system, to review the acquisition of control over the management of domestic insurance companies, however effectuated, and to provide standards for such supervision and review.

(b) As used in sections 38a-129 to 38a-140, inclusive, the following terms shall have the respective meanings hereinafter set forth, unless the context shall otherwise require:

(1) "Affiliate" or "affiliated" has the same meaning as provided in section 38a-1;

(2) "Commissioner" means the Insurance Commissioner and any assistant to the Insurance Commissioner designated and authorized by the commissioner while acting under such designation;

(3) "Control", "controlled by" or "under common control with" has the same meaning as provided in section 38a-1;

(4) "Enterprise risk" means any activity, circumstance, event or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or the insurer's insurance holding company system as a whole, including, but not limited to, any activity, circumstance, event or series of events that would cause an insurer's risk-based capital to fall below minimum threshold levels, as described in subsection (d) of section 38a-72 or, for a health care center, in subdivision (2) of subsection (a) of section 38a-193, or would cause the insurer to be in a hazardous financial condition;

(5) "Group capital calculation instructions" means the group capital calculation instructions as adopted by the NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC;

~~[(5)]~~ (6) "Insurance holding company system" means two or more affiliated persons, one or more of which is an insurance company;

~~[(6)]~~ (7) "Insurance company" or "insurer" has the same meaning as provided in section 38a-1, except that it does not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state;

~~[(7)]~~ (8) "NAIC" means the National Association of Insurance Commissioners;



(9) “NAIC liquidity stress test framework” means the NAIC publication which includes a history of the NAIC’s development of regulatory liquidity stress testing, the scope criteria applicable for a specific data year, and the liquidity stress test instructions and reporting templates for a specific data year, such scope criteria, instructions, and reporting template being as adopted by the NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC;

~~[(8)]~~ (10) “Person” has the same meaning as provided in section 38a-1, or any combination of persons so defined acting in concert;

(11) “Scope criteria” means the designated exposure bases along with minimum magnitudes thereof for the specified data year used to establish a preliminary list of insurers considered scoped into the NAIC liquidity stress test framework for that data year;

~~[(9)]~~ (12) A “securityholder” of a specified person means one who owns any security of such person, including common stock, preferred stock, debt obligations and any other security convertible into or evidencing the right to acquire any of the foregoing;

~~[(10)]~~ (13) “Subsidiary” has the same meaning as provided in section 38a-1;

~~[(11)]~~ (14) “Voting security” includes any security convertible into or evidencing a right to acquire a voting security.

(c) The provisions of sections 38a-129 to 38a-140, inclusive, shall apply to captive insurance companies, as defined in section 38a-91aa, as specified in section 38a-91oo.

Section 2. Sections 38a-135 to 38a-137, inclusive, of the general statutes are repealed and the following are substituted in lieu thereof (*Effective July 1, 2022*)

Sec. 38a-135. (Formerly Sec. 38-39g). Insurance holding company system member registration. Registration statement. Annual enterprise risk report. Termination of registration statement. Disclaimer of affiliation. Exemptions. Supervisory college. Group-wide supervision of internationally active insurance group. (a) Every insurance company that is authorized to do business in this state and is a member of an insurance holding company system shall register with the commissioner on a form prescribed by the commissioner. Any insurance company that is subject to registration under this section shall register not later than fifteen days after it becomes subject to registration, and annually thereafter by June first of each year for the previous calendar year, unless the commissioner, for good cause shown, extends the time for registration, in which case it shall register within such extended time.



(b) (1) Every insurance company subject to registration shall file a registration statement that shall contain the following current information:

(A) The capital structure, general financial condition, ownership and management of the insurance company and any person controlling the insurance company;

(B) The identity and relationship of every member of the insurance holding company system;

(C) The following agreements in force, and transactions outstanding or that have occurred during the last calendar year between such insurance company and its affiliates: (i) Loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the insurance company or of the insurance company by its affiliates; (ii) purchases, sales or exchanges of assets; (iii) transactions not in the ordinary course of business; (iv) guarantees or undertakings for the benefit of an affiliate that result in an actual contingent exposure of the insurance company's assets to liability, other than insurance contracts entered into in the ordinary course of the insurance company's business; (v) management agreements, service contracts and cost-sharing arrangements; (vi) reinsurance agreements; (vii) dividends and other distributions to securityholders; and (viii) consolidated tax allocation agreements;

(D) Any pledge of the insurance company's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system;

(E) If requested by the commissioner, financial statements of or within an insurance holding company system, including all affiliates. Such statements may include, but are not limited to, annual audited financial statements filed with the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended from time to time, or the Securities Exchange Act of 1934, as amended from time to time. An insurance company required to file financial statements under this subparagraph may provide the commissioner with its parent corporation's financial statements that are most recently filed with said commission;

(F) Statements that the insurance company's board of directors oversees corporate governance and internal controls of such company, and that such company's officers or senior management have approved, implemented and continue to maintain such governance and controls;

(G) Other matters concerning transactions between registered insurance companies and any affiliates as may be included from time to time in any registration forms adopted or approved by the commissioner; and

(H) Any other information required by regulations adopted in accordance with the provisions of chapter 54.



(2) All registration statements shall contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.

(c) No information need be disclosed on the registration statement filed pursuant to subsection (b) of this section if such information is not material for the purposes of this section. Unless the commissioner by regulation or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, investments, or guarantees involving one-half of one per cent or less of the insurance company's admitted assets as of the thirty-first day of December next preceding shall not be deemed material for purposes of this section. The provisions of this subsection shall not apply for purposes of subsections (g) and (h) of this section.

(d) Subject to subsection (b) of section 38a-136, each registered insurance company shall report to the commissioner all dividends and other distributions to securityholders not later than fifteen business days after the declaration thereof or such other period as the commissioner shall prescribe by regulation.

(e) Any person within an insurance holding company system subject to registration shall be required to provide complete and accurate information to an insurance company, where such information is reasonably necessary to enable the insurance company to comply with the provisions of sections 38a-129 to 38a-140, inclusive.

(f) (1) The ultimate controlling person of each insurance company subject to registration under this section shall file an annual enterprise risk report in a form and manner prescribed by the commissioner. Beginning in 2014 and annually thereafter, the report shall be filed by June first for the previous calendar year. The annual enterprise risk report shall identify, to the best of such person's knowledge and belief, the material risks within the insurance holding company system that could pose enterprise risk to the insurance company. The report shall be filed with the lead state commissioner as determined by the procedures in NAIC's applicable financial analysis handbook. Such report shall (A) be confidential by law and privileged, (B) not be subject to disclosure under section 1-210, (C) not be subject to subpoena, and (D) not be subject to discovery or admissible in any civil action. The commissioner shall not make such report public without the prior written consent of the ultimate controlling person that filed such report unless the commissioner, after giving the ultimate controlling person and the insurance company to which such report pertains and its affiliates within the insurance holding company system who would be affected thereby notice and opportunity to be heard, determines that the interests of policyholders, securityholders or the public will be served by the publication thereof, in which event the commissioner may publish all or any part thereof in such manner as the commissioner may deem appropriate. The commissioner may use such report in the furtherance of any regulatory or legal action brought as part of the commissioner's official duties.



(2) The commissioner may share the enterprise risk report only with the insurance regulatory official of another state with laws or regulations substantially similar to subsection (a) of section 38a-137 and who has agreed, in writing, to maintain the confidentiality and privileged status of such report.

(g) (1) Except as provided in subdivision (2) of this subsection, the ultimate controlling person of every insurer subject to registration shall concurrently file with the registration an annual group capital calculation as directed by the lead state commissioner. The report shall be completed in accordance with the NAIC group capital calculation instructions, which may permit the lead state commissioner to allow a controlling person that is not the ultimate controlling person to file the group capital calculation. The report shall be filed with the lead state commissioner of the insurance holding company system as determined by the lead state commissioner in accordance with the procedures within the Financial Analysis Handbook adopted by the NAIC.

(2) An insurance holding company system shall be exempt from filing the group capital calculation if it is:

(A) An insurance holding company system that has only one (1) insurer within its holding company structure, that only writes business and is only licensed in its domestic state, and assumes no business from any other insurer;

(B) An insurance holding company system that is required to perform a group capital calculation specified by the United States Federal Reserve Board. The lead state commissioner shall request such group capital calculation from the United States Federal Reserve Board under the terms of information sharing agreements in effect. If the United States Federal Reserve Board cannot share the calculation with the lead state commissioner, the insurance holding company system shall not be exempt from the group capital calculation filing;

(C) An insurance holding company system whose non-United States group-wide supervisor is located within a reciprocal jurisdiction as described in section 38a-85 that recognizes the United States regulatory approach to group supervision and group capital; or

(D) An insurance holding company system (i) that provides information to the lead state commissioner that meets the requirements for accreditation under the NAIC financial standards and accreditation program, either directly or indirectly through the group-wide supervisor, who has determined such information is satisfactory to allow the lead state to comply with the NAIC group supervision approach, as detailed in the NAIC Financial Analysis Handbook, and (ii) whose non-United States group-wide supervisor that is not in a reciprocal jurisdiction recognizes and accepts, as specified by the commissioner in regulation, the group capital calculation as the world-wide group capital assessment for United States insurance groups who operate in that jurisdiction.



(3) Notwithstanding subparagraphs (C) and (D) of subdivision (2) of this subsection, a lead state commissioner shall require the group capital calculation for the United States operations of any non-United States based insurance holding company system where, after any necessary consultation with other supervisors or officials, it is determined appropriate by the lead state commissioner for prudential oversight and solvency monitoring purposes or for ensuring competitiveness of the insurance marketplace.

(4) Notwithstanding subparagraphs (A) and (D) of subdivision (2) of this subsection, the lead state commissioner shall have the discretion to exempt the ultimate controlling person from filing the annual group capital calculation or to accept a limited group capital filing or report in accordance with criteria as specified by the commissioner in regulation.

(5) If the lead state commissioner determines that an insurance holding company system no longer meets one (1) or more of the requirements for an exemption for filing the group capital calculation under subdivision (2) of this subsection, the insurance holding company system shall file the group capital calculation at the next annual filing date unless given an extension by the lead state commissioner based on reasonable grounds shown.

(6) The information reported and provided to the lead state commissioner by an insurance holding company supervised by the United States Federal Reserve Board or any United States group-wide supervisor pursuant to this subsection, shall (A) be confidential by law and privileged, (B) not be subject to disclosure under section 1-210, (C) not be subject to subpoena, and (D) not be subject to discovery or admissible in any civil action.

(7) The group capital calculation and resulting group capital ratio required pursuant to this subsection are regulatory tools for assessing group risks and capital adequacy and are not intended as a means to rank insurers or insurance holding company systems generally.

(h) The ultimate controlling person of every insurer subject to registration and also scoped into the NAIC liquidity stress test framework shall file the results of a specific year's liquidity stress test to the lead state insurance commissioner of the insurance holding company system as determined by procedures within the Financial Analysis Handbook adopted by the NAIC.

(1) The NAIC liquidity stress test framework includes scope criteria applicable to a specific data year. These scope criteria are reviewed at least annually by the NAIC Financial Stability Task Force or its successor. Any change to the NAIC liquidity stress test framework or to the data year for which the scope criteria are to be measured shall be effective on January 1 of the year following the calendar year when such changes are adopted. Insurers meeting at least one (1) threshold of the scope criteria shall be considered scoped into the NAIC liquidity stress test framework for the specified data year unless the lead state commissioner, in consultation with the NAIC Financial Stability Task Force or its successor,



determines the insurer should not be scoped into the NAIC liquidity stress test framework for that data year. Insurers that do not trigger at least one (1) threshold of the scope criteria shall be considered scoped out of the NAIC liquidity stress test framework for the specified data year, unless the lead state insurance commissioner, in consultation with the NAIC Financial Stability Task Force or its successor, determines the insurer should be scoped into the NAIC liquidity stress test framework for that data year.

(2) The performance of, and filing of the results from, a specific year's liquidity stress test shall comply with the NAIC liquidity stress test framework's instructions and reporting templates for that year and any lead state insurance commissioner determinations, in conjunction with the NAIC Financial Stability Task Force or its successor, provided within the NAIC liquidity stress test framework.

(3) The information reported and provided to the lead state commissioner by an insurance holding company supervised by the United States Federal Reserve Board and non-United States group-wide supervisor pursuant to this subsection, shall (A) be confidential by law and privileged, (B) not be subject to disclosure under section 1-210, (C) not be subject to subpoena, and (D) not be subject to discovery or admissible in any civil action.

(4) The liquidity stress test along with its results and supporting disclosures required pursuant to this subsection are regulatory tools for assessing group liquidity risks and are not intended as a means to rank insurers or insurance holding company systems generally.

[(g)] (i) The commissioner shall terminate the registration of any insurance company that demonstrates that it no longer is a member of an insurance holding company system.

[(h)] (j) The commissioner may require or allow two or more affiliated insurance companies subject to registration hereunder to file a consolidated registration statement.

[(i)] (k) The commissioner may allow an insurance company that is authorized to do business in this state and is part of an insurance holding company system to register on behalf of any affiliated insurer that is required to register under subsection (a) of this section and to file all information and materials required to be filed under this section.

[(j)] (l) Any person may file with the commissioner a disclaimer of affiliation with any insurance company and any insurance company may file a disclaimer of affiliation with any other person. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and such insurance company as well as the basis for disclaiming such affiliation. After a disclaimer has been filed, the insurance company shall be relieved of any duty to register or report under this section that may arise out of the insurance company's relationship with such person unless the commissioner disallows such disclaimer. The commissioner shall disallow such disclaimer only after furnishing all



parties in interest with notice and an opportunity to be heard, and after making specific findings of fact to support such disallowance.

[(k)] (m) The failure to file a registration statement or any amendment, addition thereto or summary or an enterprise risk report required by this section within the time specified for such filing shall be a violation of sections 38a-129 to 38a-140, inclusive.

[(l)] (n) The commissioner may by regulation or order exempt any insurance company or class of insurance companies from registration under this section if, in the commissioner's judgment, registration by such company or class of companies is not necessary to effectuate the purposes of said sections.

[(m)] (o) A foreign or alien insurer shall not be required to register pursuant to this section if it is (1) subject to disclosure requirements and standards adopted by statute or regulation in the jurisdiction of its domicile that are substantially similar to those contained in this section and subsections (a), (b), (f) and (g) of section 38a-136, or (2) admitted in the domiciliary jurisdiction of the principal insurer in its holding company system and in said jurisdiction is subject to disclosure requirements and standards adopted by statute or regulation that are substantially similar to those contained in this section and subsections (a), (b), (f) and (g) of section 38a-136. The commissioner may require any authorized insurer that is a member of a holding company system not subject to registration under this section to furnish a copy of the registration statement or other information filed by such insurance company with the insurance regulatory authority of its domicile or the domicile of the principal insurer in its holding company system, as the case may be.

[(n)] (p) (1) To assess the business strategy, financial, legal or regulatory position risk exposure, risk management or governance processes of a domestic insurance company registered under this section that is part of an insurance holding company system that has international operations, and as part of the examination pursuant to section 38a-14a of such insurance company, the commissioner may initiate, be a member of or participate in a supervisory college, which shall be a temporary or permanent forum for communication between and cooperation among state, federal and international regulatory officials.

(2) If the commissioner initiates a supervisory college, the commissioner shall (A) establish the membership of, and participation by state, federal or international regulatory officials in, such supervisory college, (B) establish the functions of the supervisory college and the role of members and participants, and select a chairperson for such supervisory college, (C) coordinate the activities of the supervisory college, including meeting planning and processes for information sharing that comply with the applicable confidentiality provisions set forth in section 38a-137, and (D) establish a crisis management plan for such supervisory college.



(3) The commissioner may enter into written agreements with state, federal or international regulatory officials for the governing of the activities of a supervisory college. Any such agreements shall maintain the confidentiality requirements under section 38a-137.

(4) Each insurance company subject to registration under this section shall be assessed for and shall pay to the commissioner its share of the reasonable costs, including reasonable travel expenses, of the commissioner's participation in a supervisory college. Such payment shall be in addition to any other taxes, fees and moneys otherwise payable to the state. The commissioner shall establish the assessment method for such costs and provide reasonable notice to each insurance company subject to any such assessment.

(5) Nothing in this subsection shall be construed to limit the authority of the commissioner to regulate an insurance company or its affiliate under the commissioner's jurisdiction or to delegate any regulatory authority of the commissioner to a supervisory college.

~~[(o)]~~ (q) (1) As used in this subsection: (A) "Group-wide supervisor" means the regulatory official (i) authorized by such official's jurisdiction to conduct and coordinate group-wide supervisory activities, and (ii) who is determined or acknowledged to be the group-wide supervisor of an internationally active insurance group pursuant to this subsection; and (B) "internationally active insurance group" means any insurance holding company system that (i) includes an insurance company registered pursuant to this section, and (ii) meets the following criteria: (I) Premiums are written in at least three countries; (II) the percentage of gross premiums written, including, for purposes of this subsection, administrative service fees, associated expenses, and claims payments, without the United States is at least ten per cent of the insurance holding company system's total gross written premiums; and (III) based on a three-year rolling average, the total assets of the insurance holding company system are at least fifty billion dollars or the total gross written premiums of the insurance holding company system are at least ten billion dollars.

(2) (A) The commissioner, in cooperation with other state, federal and international regulatory agencies of the jurisdictions where members of the internationally active insurance group are domiciled, shall determine a single group-wide supervisor for an internationally active insurance group. An insurance holding company system that does not qualify as an internationally active insurance group may request that the commissioner make a determination or acknowledgment of a group-wide supervisor as set forth in this subsection.

(B) The commissioner may determine that the commissioner is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance business operations in this state and may act as a group-wide supervisor for any internationally active insurance group in accordance with the provisions of this subsection.



(C) The commissioner may acknowledge that the regulatory official of another jurisdiction is an appropriate group-wide supervisor for an internationally active insurance group that (i) does not conduct substantial insurance business operations in the United States, (ii) conducts substantial insurance business operations in the United States but not in this state, or (iii) conducts substantial insurance business operations in the United States and in this state but the commissioner has determined, pursuant to the factors set forth in subdivision (3) of this subsection, that the regulatory official of another jurisdiction is the appropriate group-wide supervisor.

(D) When another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the commissioner shall acknowledge such official as the group-wide supervisor, except that the commissioner shall make a determination or acknowledgment of a group-wide supervisor for such insurance group if a material change in such insurance group results in (i) the largest share of such insurance group's premiums, assets or liabilities being held by member insurance companies domiciled in this state, or (ii) this state being the place of domicile of the top-tiered insurance company or companies in such insurance group.

(E) A regulatory official determined or acknowledged to be a group-wide supervisor of an internationally active insurance group may determine, after considering the factors set forth in subdivision (3) of this subsection, that it is appropriate to acknowledge another regulatory official to serve as the group-wide supervisor of such insurance group. Such acknowledgment shall be made (i) in cooperation with and subject to the acknowledgment of other regulatory officials of the jurisdictions where members of such insurance group are domiciled, and (ii) in consultation with such insurance group.

(3) The commissioner shall consider the following factors in making a determination or acknowledgment under subdivision (2) of this subsection:

(A) The place of domicile of the member insurance companies of the internationally active insurance group that holds the largest share of such insurance group's premiums, assets or liabilities;

(B) The place of domicile of the top-tiered insurance company or companies in the internationally active insurance group;

(C) The locations of the executive offices or the largest operational offices of the internationally active insurance group; and

(D) Whether (i) a regulatory official of another jurisdiction is acting or seeking to act as the group-wide supervisor under a regulatory system the commissioner determines to be substantially similar to that provided under the laws of this state or is otherwise sufficient in terms of group-wide supervision, enterprise risk analysis and cooperation with other regulatory officials, and (ii) such regulatory official



acting or seeking to act as the group-wide supervisor provides the commissioner with reasonably reciprocal recognition and cooperation.

(4) The commissioner may collect, pursuant to section 38a-14a, from any insurance company registered pursuant to this section any information necessary for the commissioner to determine whether the commissioner may act as the group-wide supervisor of an internationally active insurance group of which such company is a member or whether the commissioner may acknowledge that a regulatory official of another jurisdiction should act as the group-wide supervisor of such insurance group.

(5) Prior to issuing any determination or acknowledgment under this subsection, the commissioner shall notify the member insurance company registered pursuant to this section and the ultimate controlling person of the internationally active insurance group of such pending determination or acknowledgment. The commissioner shall provide the internationally active insurance group at least thirty calendar days to submit any additional information pertinent to such determination or acknowledgment that is requested by the commissioner or that such insurance group chooses to submit. The commissioner shall publish in the Connecticut Law Journal and post on the Insurance Department's Internet web site a current list of internationally active insurance groups that the commissioner has determined are subject to group-wide supervision by the commissioner.

(6) The commissioner may conduct and coordinate the following group-wide supervision activities for an internationally active insurance group for which the commissioner is determined to be the group-wide supervisor:

(A) Assess the enterprise risks within the internationally active insurance group to ensure that material financial conditions of and liquidity risks to the members of such insurance group that are engaged in the business of insurance are identified by management and that reasonable and effective mitigation measures are in place;

(B) Request from members of such insurance group information necessary and appropriate to assess enterprise risk, including, but not limited to, information about governance, risk assessment and management, capital adequacy and material intercompany transactions;

(C) Coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compel the development and implementation of reasonable measures designed to ensure the internationally active insurance group is able to timely recognize and mitigate material enterprise risks to the members of such insurance group that are engaged in the business of insurance;

(D) Communicate with other state, federal and international regulatory agencies of the jurisdictions where members of the internationally active insurance group are domiciled and share relevant



information, subject to the confidentiality provisions of section 38a-137, through a supervisory college, as set forth in subsection (n) of this section;

(E) Enter into agreements with or obtain documentation from any member insurance company registered under this section, any other member of the internationally active insurance group and any other state, federal and international regulatory agencies of the jurisdictions where members of the internationally active insurance group are domiciled, to establish or clarify the commissioner's role as group-wide supervisor and that may include provisions for resolving disputes with other regulatory officials. No such agreement or documentation shall serve as evidence that an insurance company or person within an insurance company holding system that is not domiciled or incorporated in this state is doing business in this state or is otherwise subject to the jurisdiction of this state; and

(F) Other activities necessary to effectuate the group-wide supervisory purposes of this section and sections 38a-129 to 38a-140, inclusive, and within the authority granted in said sections.

(7) If the commissioner acknowledges that a regulatory official of a jurisdiction not accredited by NAIC is the group-wide supervisor of an internationally active insurance group, the commissioner shall reasonably cooperate through a supervisory college or otherwise with group supervision undertaken by such group-wide supervisor, provided such cooperation is in compliance with the laws of this state and such group-wide supervisor recognizes and cooperates with the commissioner's activities as a group-wide supervisor for other internationally active insurance groups, where applicable. The commissioner may refuse to cooperate if the commissioner determines such recognition and cooperation are not reasonably reciprocated. The commissioner may enter into agreements with or obtain documentation from any member insurance company registered pursuant to this section, any affiliate of such insurance company and any other state, federal and international regulatory agencies of the jurisdictions where members of the internationally active insurance group are domiciled, to establish or clarify such official's role as group-wide supervisor.

(8) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to carry out the provisions of this subsection.

(9) Each insurance company registered pursuant to this section shall be liable for and shall pay the reasonable expenses of the commissioner's administration of this subsection, including the engagement of the services of attorneys, actuaries and other professionals and all reasonable travel expenses.

Sec. 38a-136. (Formerly Sec. 38-39h). Requirements re transactions within an insurance holding company system. Prohibited transactions. Extraordinary dividends or distributions. (a) Transactions within an insurance holding company system to which an insurance company subject to registration under section 38a-135 is a party shall be subject to the following requirements:



- (1) The terms shall be fair and reasonable;
- (2) [c]Charges or fees for services performed shall be reasonable;
- (3) [e]Expenses incurred and payment received shall be allocated to the insurance company in conformity with customary insurance accounting practices consistently applied;
- (4) [t]The books, accounts and records of each party shall be so maintained as to clearly and accurately disclose the precise nature and details of the transactions, including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties;
- (5) [t]The insurance company's surplus shall be reasonable in relation to such company's outstanding liabilities and adequate to its financial needs; [and]
- (6) [a]Agreements for cost-sharing services and management shall include such provisions as may be required by regulations adopted by the commissioner;
- (7) If an insurance company subject to sections 38a-129 to 38a-140, inclusive, is determined by the commissioner to be in a hazardous financial condition as set forth in sections 38a-8-101 to 38a-8-104, inclusive, of the regulations of Connecticut state agencies or a condition that would be grounds for supervision, conservation or a delinquency proceeding as set forth in chapter 704c, then the commissioner may require the insurance company to secure and maintain either a deposit, held by the commissioner, or a bond, as determined by the insurance company at the insurance company's discretion, for the protection of the insurance company for the duration of the contracts or agreements, or the existence of the condition for which the commissioner required the deposit or the bond. In determining whether the bond is required, the commissioner shall consider whether concerns exist with respect to affiliates of the insurance company to fulfill the contracts or agreements if the insurance company were to be put into liquidation. Once the insurance company is determined to be in a hazardous financial condition or a condition that be grounds for supervision, conservation or a delinquency proceeding, and a deposit or bond is necessary, the commissioner shall have discretion to determine the amount of the deposit or bond, not to exceed the value of the contracts or agreements in any one year, and whether such deposit or bond shall be required for a single contract, multiple contracts, or a contract only with a specific affiliate of the insurance company;
- (8) All records and data of the insurance company held by an affiliate are and remain the property of the insurance company, are subject to control of the insurance company, are identifiable, and are segregated or readily capable of segregation, at no additional cost to the insurance company, from all other persons' records and data. This includes all records and data that are otherwise the property of the insurance company, in whatever form maintained, including, but not limited to, claims and claim files, policyholder lists, application files, litigation files, premium records, rate books, underwriting manuals,



personnel records, financial records or similar records within the possession, custody or control of the affiliate. At the request of the insurance company, the affiliate shall provide that the receiver can obtain a complete set of all records of any type that pertain to the insurance company's business; obtain access to the operating systems on which the data is maintained; obtain the software that runs those systems either through assumption of licensing agreements or otherwise; and restrict the use of the data by the affiliate if it is not operating the insurance company's business. The affiliate shall provide a waiver of any landlord lien or other encumbrance to give the insurance company access to all records and data in the event of the affiliate's default under a lease or other agreement; and

(9) Premiums or other funds belonging to the insurance company that are collected by or held by an affiliate are the exclusive property of the insurance company and are subject to the control of the insurance company. Any right of offset in the event an insurance company is placed into receivership shall be subject to chapter 704c.

(b) (1) The following transactions involving a domestic insurance company and any person in its holding company system, including amendments to or modifications of affiliate agreements previously filed pursuant to this section and that are subject to any materiality standards specified in subparagraphs (A) to (G), inclusive, of this subdivision, may not be entered into unless the insurance company has notified the commissioner in writing of its intention to enter into such transaction at least thirty days prior thereto, or such shorter period as the commissioner may permit, and the commissioner has approved or not disapproved it within such period. The written notice for such amendments or modifications shall specify the reasons for the change and the financial impact on the domestic insurance company. Not later than thirty days after the termination of a previously filed agreement, the domestic insurance company shall notify the commissioner of such termination for the commissioner's determination of what written notice or filing shall be required, if any:

(A) Sales, purchases, exchanges, loans or extensions of credit, or investments, provided such transactions are equal to or exceed: (i) With respect to nonlife insurance companies, the lesser of three per cent of the insurance company's admitted assets or twenty-five per cent of surplus; or (ii) with respect to life insurance companies, three per cent of the insurance company's admitted assets; each as of the thirty-first day of December next preceding;

(B) Loans or extensions of credit to any person who is not an affiliate, where the insurance company makes such loans or extensions of credit with the agreement or understanding that the proceeds of such transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurance company making such loans or extensions of credit, provided such transactions are equal to or exceed: (i) With respect to nonlife insurance companies, the lesser of three per cent of the insurance company's admitted assets or twenty-



five per cent of surplus; or (ii) with respect to life insurance companies, three per cent of the insurance company's admitted assets; each as of the thirty-first day of December next preceding;

(C) Reinsurance agreements or modifications thereto, including (i) all reinsurance pooling agreements, and (ii) agreements in which the reinsurance premium or a change in the insurance company's liabilities, or the projected reinsurance premium or a projected change in the insurance company's liabilities in any of the next three years, equals or exceeds five per cent of the insurance company's surplus, as of the thirty-first day of December next preceding, including those agreements that may require as consideration the transfer of assets from an insurance company to a nonaffiliate, if an agreement or understanding exists between the insurance company and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the insurance company;

(D) All management agreements, service contracts, tax allocation agreements and cost-sharing arrangements;

(E) Guarantees by a domestic insurance company, except that a guarantee that is (i) quantifiable as to amount, and (ii) does not exceed the lesser of one-half of one per cent of the insurance company's admitted assets or ten per cent of surplus with regard to policyholders, as of the thirty-first day of December next preceding, shall not be subject to the notice requirement of this subsection;

(F) Direct or indirect acquisitions or investments in a person that controls the domestic insurance company or in an affiliate of the insurance company in an amount that, together with the insurance company's present holdings in such investments, exceeds two and one-half per cent of the insurance company's surplus with regard to policyholders. This subsection shall not apply to direct or indirect acquisitions of or investments in (i) subsidiaries acquired pursuant to section 38a-102d or authorized pursuant to any section of this title other than sections 38a-129 to 38a-140, inclusive, or (ii) nonsubsidiary affiliates that are subject to the provisions of sections 38a-129 to 38a-140, inclusive; and

(G) Any material transactions, specified by regulation, that the commissioner determines may adversely affect the interests of the insurance company's policyholders.

(2) Nothing contained in this section shall be deemed to authorize or permit any transactions that, in the case of an insurance company not a member of the same insurance holding company system, would be otherwise contrary to law.

(c) A domestic insurance company may not enter into transactions that are part of a plan or series of like transactions with persons within the insurance holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would otherwise occur. If the commissioner determines that such separate transactions were entered into over



any twelve-month period for such purpose, the commissioner may exercise authority under section 38a-140.

(d) The commissioner, in reviewing transactions pursuant to subsection (b) of this section, shall consider whether the transactions comply with the standards set forth in subsection (a) of this section and whether they may adversely affect the interests of policyholders.

(e) Except as may be exempted pursuant to regulations adopted, in accordance with the provisions of chapter 54, by the commissioner or otherwise waived by the commissioner, the commissioner shall be notified not later than thirty days after any material investment of the domestic insurance company in any one corporation if the total investment in such corporation by such insurance company's insurance holding company system exceeds ten per cent of such corporation's voting securities.

(f) (1) No insurance company subject to registration under section 38a-135 shall pay any extraordinary dividend or make any other extraordinary distribution to its stockholders until the commissioner has approved such payment or until thirty days after the commissioner has received notice from such company of the declaration thereof within which period the commissioner has not disapproved such payment, whichever is sooner. For the purposes of this subsection, an extraordinary dividend or distribution is any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve months, exceeds the greater of (A) ten per cent of such insurance company's surplus as of the thirty-first day of December last preceding, or (B) the net gain from operations of such insurance company, if such company is a life insurance company, or the net income, if such company is not a life insurance company, for the twelve-month period ending the thirty-first day of December last preceding, but shall not include pro rata distributions of any class of the insurance company's own securities.

(2) Notwithstanding any other provision of law, an insurance company may declare an extraordinary dividend or distribution that is conditional upon the commissioner's approval thereof, but such a declaration shall confer no rights upon stockholders until (A) the commissioner has approved the payment of such dividend or distribution, or (B) until thirty days after such declaration thereof within which period the commissioner has not disapproved such declaration, whichever is sooner.

(g) For purposes of sections 38a-129 to 38a-140, inclusive, in determining whether an insurance company's surplus is reasonable in relation to the insurance company's outstanding liabilities and adequate to its financial needs, the following factors, in addition to others, shall be considered: (1) The size of the insurance company as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria; (2) the extent to which the insurance company's business is diversified among the several lines of insurance; (3) the number and size of risks insured in each line of business; (4) the nature of the geographical dispersion of the insurance company's insured risks; (5)



the nature and extent of the insurance company's reinsurance program; (6) the quality, diversification and liquidity of the insurance company's investment portfolio; (7) the recent past and projected future trend in the size of the insurance company's surplus; (8) the surplus maintained by other comparable insurance companies; (9) the adequacy of the insurance company's reserves; (10) the quality of the company's earnings and the extent to which the reported earnings include extraordinary items; and (11) the quality and liquidity of investments in affiliates. The commissioner may discount any such investment or treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus whenever, in the commissioner's judgment, such investment warrants.

(h) (1) Any domestic insurance company that is affiliated with an insurance holding company system shall report for informational purposes to the Insurance Commissioner all dividends and other distributions to securityholders, not later than five business days after the declaration and at least ten days, commencing from the date of receipt by the Insurance Department, prior to payment thereof.

(2) No dividend or other distribution may be paid when the surplus of the insurance company is less than the surplus required by section 38a-72 for the kind or kinds of business authorized to be transacted by such company, nor when the payment of a dividend or other distribution would reduce its surplus to less than such amount.

(3) Except as otherwise provided by law, no dividend or other distribution exceeding an amount equal to an insurance company's earned surplus may be paid without the Insurance Commissioner's prior approval. For purposes of this subsection, "earned surplus" means "unassigned funds-surplus", as defined in the annual report of the insurance company that was most recently submitted pursuant to section 38a-53, reduced by twenty-five per cent of unrealized appreciation in value or revaluation of assets or unrealized profits on investments, as defined in such report.

(i) (1) The commissioner may require a domestic insurance company of which control has been acquired pursuant to section 38a-130 to submit to a financial examination and a market conduct examination within thirty days after such acquisition in accordance with procedures set forth by NAIC's examiner's handbook and such regulations as the commissioner may adopt.

(2) No domestic insurance company of which control has been acquired pursuant to section 38a-130 shall, without the prior approval of the commissioner: (A) Pay or propose to pay any dividend during the period of two years from the date of acquisition of control of such insurance company; (B) acquire or enter into an agreement or understanding to acquire control, during the period of three years after the date of acquisition of control of such insurance company, of any other person or persons whose assets exceed twenty-five million dollars; (C) provide or propose to provide directly or indirectly, during the period of three years after the date of acquisition of control of such insurance company, any loans, advances, guarantees, pledges or other financial assistance; or (D) engage in any material transaction



with any person during the period of three years after the date of acquisition of such insurance company. For purposes of this subsection, a “material transaction” shall include, but not be limited to, any transfer or encumbrance of assets not in the ordinary course of business that, together with all other transfers or encumbrances made within the preceding twelve months, exceeds in value the greater of (i) ten per cent of such insurance company's surplus as of the December thirty-first last preceding, or (ii) the net gain from operations of such insurance company, if such company is a life insurance company, or the net investment income of such company, if such company is not a life insurance company, for the twelve-month period ending the December thirty-first last preceding.

(3) The commissioner shall, upon a written request from the controlled domestic insurance company and, upon public hearing after notice to all interested parties, determine whether any limitations contained in subdivision (2) of this subsection shall be continued, or whether and on what conditions they may be waived. Such determination shall be predicated on the results of the examinations under subdivision (1) of this subsection and such further examinations, if any, the commissioner may require concerning the adequacy of the insurance company's reserves, the effect any proposed transaction will have on the insurance company's surplus, its cash flow needs and its ability to satisfy any reasonably anticipated obligations in the foreseeable future, and any other effect the proposed transaction would have on the financial stability or solvency of the insurance company and the quality and liquidity of its assets. All fees and expenses relating to such examinations shall be paid by the insurance company.

(4) Nothing in this subsection shall be interpreted to prohibit any transactions between a domestic insurance company and any of its subsidiaries in the ordinary course of business.

(j) (1) Any affiliate that is a party to an agreement or contract with a domestic insurance company that is subject to subparagraph (D) of subdivision (1) of subsection (b) of this section shall be subject to the jurisdiction of any order of rehabilitation or liquidation against the insurance company and to the authority of any rehabilitator or liquidator for the insurance company appointed pursuant to chapter 704c for the purpose of interpreting, enforcing, and overseeing the affiliate's obligations under the agreements or contracts to perform services for the insurance company that: (A) are an integral part of the insurance company's operations, including, but not limited to, management, administration, accounting, data processing, marketing, underwriting, claims handling, investment, or any other similar functions; or (B) are essential to the insurance company's ability to fulfill its obligations under insurance policies.

(2) The commissioner may require that an agreement or contract pursuant to subparagraph (D) of subdivision (1) of subsection (b) of this section for provisions or services set forth in subparagraphs (A) and (B) of subdivision (1) of this subsection specify that the affiliate consents to the jurisdiction described in subdivision (1) of this subsection.



Sec. 38a-137. (Formerly Sec. 38-39i). Confidentiality of information. (a) All information, documents, materials and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to section 38a-14a and all information reported, furnished or filed pursuant to sections [38a-131](#), 38a-135 and 38a-136 shall (1) be confidential by law and privileged, (2) not be subject to disclosure under section 1-210, (3) not be subject to subpoena, and (4) not be subject to discovery or admissible in evidence in any civil action. The commissioner shall not make such information, documents, materials or copies public without the prior written consent of the insurance company to which it pertains unless the commissioner, after giving the insurance company and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interests of policyholders, securityholders or the public will be served by the publication thereof, in which event the commissioner may publish all or any part thereof in such manner as the commissioner may deem appropriate. The commissioner may use such information, documents, materials or copies in the furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

(b) Neither the commissioner nor any person who receives information, documents, materials or copies as set forth in subsection (a) of this section or with whom such information, documents, materials or copies are shared, while acting under the authority of the commissioner, shall testify or be required to testify in any civil action concerning such information, documents, materials or copies.

(c) Except as specified in subdivision (2) of subsection (f) of section 38a-135, to assist the commissioner in the performance of the commissioner's duties, the commissioner:

(1) May share information, documents, materials or copies thereof, including information, documents, materials or copies deemed confidential and privileged pursuant to subsection (a) of this section, with (A) other state, federal and international regulatory officials, (B) [the NAIC](#) **[or its affiliate or subsidiaries]** [and any third-party consultants designated by the commissioner](#), (C) the International Association of Insurance Supervisors, (D) the Bank for International Settlements, (E) the Federal Insurance Office, (F) state, federal and international law enforcement authorities, and (G) members or participants of a supervisory college, as described in subsection (n) of section 38a-135, of which the commissioner is a member or a participant, provided the recipient of any such information, documents, materials or copies agrees, in writing, to maintain the confidentiality and privileged status of such information, documents, materials and copies, and has verified, in writing, the recipient's legal authority to maintain confidentiality;

(2) May receive information, documents, materials or copies thereof, including confidential and privileged information, documents, materials or copies, from [the](#) NAIC or its affiliates or subsidiaries, the International Association of Insurance Supervisors, the Bank for International Settlements, the Federal Insurance Office, or state, federal and international law enforcement authorities. The



commissioner shall maintain as confidential and privileged any information, documents, materials or copies received with notice or the understanding that such information, documents, materials or copies are confidential and privileged under the laws of the jurisdiction that is the source of such information, documents, materials or copies; and

(3) Shall enter into written agreements consistent with this subsection with the NAIC and any third-party consultant designated by the commissioner, and may enter into written agreements consistent with this subsection with the International Association of Insurance Supervisors or the Bank for International Settlements, governing the sharing and use of information, documents, materials or copies thereof shared or received pursuant to sections 38a-129 to 38a-140, inclusive. Any such agreement shall (A) specify the procedures and protocols regarding the confidentiality and security of information shared (i) with the NAIC [or its affiliates or subsidiaries] or a third-party consultant designated by the commissioner, the International Association of Insurance Supervisors or the Bank for International Settlements pursuant to sections 38a-129 to 38a-140, inclusive, and (ii) by NAIC [or its affiliates or subsidiaries] or a third-party consultant designated by the commissioner, the International Association of Insurance Supervisors or the Bank for International Settlements with other state, federal or international regulatory officials, and (iii) shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the documents, materials or other information and has verified in writing the recipient's legal authority to maintain such confidentiality or privilege, (B) specify that the commissioner shall retain ownership of such information and that the use of such information by the NAIC [or its affiliates or subsidiaries] or a third party consultant, the International Association of Insurance Supervisors or the Bank for International Settlements is subject to the commissioner's discretion, (C) excluding documents, material or information reported pursuant to subsection (h) of section 38a-135, prohibit the NAIC or third-party consultant designated by the commissioner from storing such information shared pursuant to sections 38a-129 to 38a-140, inclusive, in a permanent database after the underlying analysis is completed, (D) require prompt notice to be given to an insurance company whose confidential information is in the possession of the NAIC or [its affiliates or subsidiaries] a third-party consultant designated by the commissioner, the International Association of Insurance Supervisors or the Bank for International Settlements, if the NAIC or [its affiliates or subsidiaries] a third-party consultant designated by the commissioner, the International Association of Insurance Supervisors or the Bank for International Settlements is subject to a request or subpoena for disclosure or production of such information, [and (D)] (E) require the NAIC or [its affiliates or subsidiaries] a third-party consultant designated by the commissioner, the International Association of Insurance Supervisors or the Bank for International Settlements, if any said entity [or such affiliate or subsidiary] is subject to disclosure of an insurance company's confidential information that has been shared with said entity [or such affiliate or subsidiary], to allow such insurance company to intervene in any judicial or administrative action regarding such disclosure or information, and (F) for documents, material or information reporting pursuant to



subsection (h) of section 38a-135, in the case of an agreement involving a third-party consultant, provide for notification of the identity of the consultant to the applicable insurer.

(d) No waiver of any applicable privilege or claim of confidentiality in any information, documents, materials or copies thereof shall occur as a result of disclosure to the commissioner or of sharing in accordance with this section. Nothing in this section shall be construed to delegate any regulatory authority of the commissioner to any person or entity with which any information, documents, materials or copies thereof have been shared.

(e) Any information, documents, materials or copies thereof in the possession of the NAIC or [its affiliates or subsidiaries] a third-party consultant designated by the commissioner, the International Association of Insurance Supervisors or the Bank for International Settlements pursuant to this section shall be confidential by law and privileged and shall not be subject to discovery or admissible in evidence in any civil action in this state.



Agency Legislative Proposal - 2022 Session

Document Name: 092321_CID_StandardNonforfeitureLawforLifeInsurance

(If submitting electronically, please label with date, agency, and title of proposal – 092621_SDE_TechRevisions)

State Agency: Connecticut Insurance Department (CID)

Liaison: Kristin Campanelli

Phone: (860)297-3864

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Lead agency division requesting this proposal: CID Actuarial & Legal Divisions

Agency Analyst/Drafter of Proposal: Jennifer Dowty, Counsel and Manuel Hidalgo, Insurance Actuary

Title of Proposal: Standard Nonforfeiture Law for Life Insurance

Statutory Reference: 38a-440

Proposal Summary:

Adopts the most recent recommendations made by the NAIC concerning the minimum nonforfeiture interest rate.

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?*
- (2) *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?*
- (3) *Have certain constituencies called for this action?*
- (4) *What would happen if this was not enacted in law this session?*

This proposal to amend our statutes is in accordance with the NAIC model law guidance and lowers the minimum nonforfeiture interest rate from one per cent to 0.15 per cent. The change was made due to the changing economic environment and the decision that it was unfair to require insurers to offer interest rates that were higher than investors could secure through a financial institution. It is anticipated that this change will be adopted by all other states.

◇ **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?

[Click here to enter text.](#)

PROPOSAL IMPACT

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

Agency Name: N/A

Agency Contact (name, title, phone): [Click here to enter text.](#)

Date Contacted: [Click here to enter text.](#)

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)*

No impact.

State

No impact.

Federal

No impact.

Additional notes on fiscal impact

[Click here to enter text.](#)



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

The proposed amendment is being made to ensure consistency with the Interstate Insurance Product Regulation Compact and prevent any conflicts and to avoid preemption.

◇ **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.

Nonforfeiture rates will continue to be monitored by the CID and Insurance Compact through the established form approval and rate filing processes.

Insert fully drafted bill here

Sec. 38a-440. (Formerly Sec. 38-130d). Minimum nonforfeiture benefits for annuity contract holders upon cessation of payment of considerations under a contract.

(a) This section shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, premium deposit fund, variable annuity, investment annuity, immediate annuity, contingent deferred annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract that is delivered outside this state through an agent or other representative of the company issuing the contract.

(b) In the case of contracts issued on or after the effective date specified in accordance with the provisions of subsections (k) and (l) of this section, no contract of annuity, except as stated in subsection (a) of this section, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

(1) That upon cessation of payment of considerations under a contract, or upon the written request of the contract owner, the company shall grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections (d), (e), (f), (g) and (i) of this section;



(2) if a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company shall pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections (d), (e), (g) and (i) of this section. The company may reserve the right to defer the payment of such cash surrender benefit for a period not to exceed six months after demand therefor with surrender of the contract after making written request and receiving written approval of the commissioner, provided such request addresses the deferral's necessity and equitability with respect to all policyholders;

(3) a statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits; and

(4) a statement that any paid-up annuity, cash surrender or death benefits which may be available under the contract are not less than the minimum benefits required by the statutes of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract. Notwithstanding the requirements of this subsection, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

(c) The minimum values as specified in subsections (d), (e), (f), (g) and (i) of this section of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this subsection:

(1) The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at rates of interest, as indicated in subdivision (3) of this subsection, of the net considerations, as defined in this subsection, paid prior to such time, decreased by the sum of (A) any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as indicated in subdivision (3) of this subsection; (B) an annual contract charge of fifty dollars, accumulated at rates of interest as indicated in subdivision (3) of this subsection; and (C) the amount of any indebtedness to the company on the contract, including interest due and accrued.



(2) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half per cent of the gross considerations credited to the contract during that contract year.

(3) The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of three per cent per annum or the rate calculated pursuant to subparagraphs (A) to (D), inclusive, of this subdivision, which shall be specified in the contract if the interest rate will be reset:

(A) The five-year Constant Maturity Treasury Rate reported by the Federal Reserve as of a date, or average over a period of time, rounded to the nearest one-twentieth of one per cent, specified in the contract no later than fifteen months prior to the contract issue date or redetermination date under subparagraph (D) of this subdivision;

(B) reduced by one hundred twenty-five basis points;

(C) where the resulting interest rate is not less than ~~one per cent~~ 15 basis points (0.15%); and

(D) where such interest rate applies for an initial period of time and may be redetermined for additional periods of time. The redetermination date, basis and period, if any, shall be stated in the contract. The basis is the date or average over a specified period of time that produces the value of the five-year Constant Maturity Treasury Rate to be used at each redetermination date.

(4) During the period of time or term that a contract provides substantive participation in an equity indexed benefit, the contract may increase the reduction described in subparagraph (B) of subdivision (3) of this subsection by an amount up to an additional one hundred basis points to reflect the value of the equity index benefit. The present value at the contract issue date, and at each redetermination date thereafter, of the additional reduction shall not exceed the market value of the benefit. The commissioner may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. If there is no such demonstration that is acceptable to the commissioner, the commissioner may disallow or limit the additional reduction.

(5) The commissioner may adopt regulations, in accordance with chapter 54, to implement the provisions of subdivision (4) of this subsection and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts for which the commissioner determines adjustments are justified.



(d) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rates specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

(e) For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one per cent higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(f) For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit, provided under the contract arising from consideration paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. In no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

(g) For the purpose of determining the benefits calculated under subsections (e) and (f) of this section, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.



(h) Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

(i) Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(j) For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections (d), (e), (f), (g) and (i) of this section, additional benefits payable (1) in the event of total and permanent disability, (2) as reversionary annuity or deferred reversionary annuity benefits, or (3) as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

(k) On or after October 1, 1978, but prior to January 1, 1981, any company may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date and the provisions of this section shall apply to annuity contracts issued by such company on or after such specified date. On or after January 1, 1981, the provisions of this section shall apply to annuity contracts issued by any company.

(l) On or after May 23, 2003, but prior to July 1, 2005, any company may file with the commissioner a written notice of its election to comply with the provisions of this section with respect to contract forms specified in the notice and issued on and after May 23, 2003, except that (1) no such notice shall be required for a company that elects to comply with the provisions of this section as set forth in the general statutes, revision of 1958, revised to January 1, 2003, and (2) on and after July 1, 2005, the provisions of this section shall apply to all annuity contracts issued by any company on and after July 1, 2005.



(m) The commissioner may adopt regulations, in accordance with chapter 54, to (1) implement the provisions of this section, and (2) notwithstanding subsection (a) of this section, prescribe nonforfeiture benefits for contingent deferred annuities that are, in the opinion of the commissioner, (A) equitable to the holders of such annuities, (B) appropriate given the risks insured, and (C) to the extent possible, consistent with the general intent of this section.



Agency Legislative Proposal - 2022 Session

Document Name: An Act Concerning Various Changes To The Utilization Review Companies Licensure Statute.

(If submitting electronically, please label with date, agency, and title of proposal – 092621_SDE_TechRevisions)

State Agency: Connecticut Insurance Department (CID)

Liaison: Kristin Campanelli

Phone: (860)297-3864

E-mail: Kristin.Campanelli@ct.gov

Lead agency division requesting this proposal: Life & Health Division

Agency Analyst/Drafter of Proposal: Marjorie J. Breen, Program Manager, Aza Mosley, Counsel

Title of Proposal: An Act Concerning Various Changes To The Utilization Review Companies Licensure Statute.

Statutory Reference: C.G.S. § 38a-591j

Proposal Summary:

Sec. 1 A change to the Utilization review license from a one-year license term to a two-year term. A change to the license/renewal fee from \$3,000.00 to \$6,000.00. Revise the requirement to notify the commissioner of any material change to also include notification of a material change to an entities policies or procedures previously approved, or material changes to the denial letters or criteria being used.

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?
- (2) 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?
- (3) Have certain constituencies called for this action?
- (4) What would happen if this was not enacted in law this session?

Sec. 1 These changes are not required by any change to laws, however most licenses in CT are renewed every two years. Some other states have reported a two-years license period for considerably less money. The review of a single license submitted is often hundreds of pages of internal policies, procedures, and sample letters to assure that they are all consistent with CT Statutes and Regulatory requirements. The change to the requirement to report material changes to the commissioner would require that the entity advises the Department of a material change to any approved policy, procedure, sample letters, criteria so that we can be assured that the changes are still compliant with state statutes and regulations.

◇ 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?

[Click here to enter text.](#)

PROPOSAL IMPACT

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

Agency Name: Insurance Department

Agency Contact (*name, title, phone*): Commissioner Mais

Date Contacted: ?

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

Summary of Affected Agency's Comments

[Click here to enter text.](#)

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)*

No effect

State

There should not be any fiscal impact as every two years we would still collect the same amount if we made the license for a two-year term at \$6,000.00, instead of the \$3,000.00 for a one-year term.

Federal

No effect

Additional notes on fiscal impact

[Click here to enter text.](#)



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

The only impact would be the licensing system currently switching thru NIPR which will be fed to SBS (NAIC owned) will change the license term and fee within the system.

◇ **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.

Sec. 1 This is a change to the utilizations review companies' licensure term, fee, notification requirement. There is no evidence based tracking.

Insert fully drafted bill here

An Act Concerning Various Changes To Utilization Review Companies Licensure Statute.

Section 1. Section 38a-591j of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from January 1, 2023*):

(a) No utilization review company shall conduct utilization review in this state for a health benefit plan under the jurisdiction of the commissioner unless it is licensed by the commissioner. All licenses shall be renewed [on an annual basis] every two years.

(b) The [annual] license fee shall be [three thousand dollars] six thousand dollars and shall be dedicated to the regulation of utilization review, except that the commissioner shall be authorized to use such funds as is necessary to (1) implement the provisions of sections 38a-91aa to 38a-91tt, inclusive, and (2) contract with The University of Connecticut School of Medicine to provide any medical consultations necessary to carry out the commissioner's responsibilities under this title with respect to consumer and market conduct matters.

(c) The request for licensure or renewal shall include the name, address, telephone number and normal business hours of the utilization review company, and the name and telephone number of a person for the commissioner to contact. Any material changes in the information filed in accordance with this subsection, or any material change to approved policies, procedures, sample letters, or change in clinical criteria for behavioral health shall be filed with the commissioner not later than thirty calendar days after the change.



(d) The commissioner shall receive and investigate all grievances filed against utilization review companies by a covered person. The commissioner shall code, track and review all grievances. The commissioner may impose such penalties as authorized, in accordance with section 38a-591k.

(e) In the absence of any contractual agreement to the contrary, the covered person or the covered person's authorized representative shall be responsible for requesting certification and for authorizing the covered person's treating health care professional to release, in a timely manner, all information necessary to conduct the review. A utilization review company shall permit the covered person, the covered person's authorized representative or the covered person's treating health care professional to assist in fulfilling that responsibility.



Agency Legislative Proposal - 2022 Session

Document Name: [Click here to enter text.](#)

(If submitting electronically, please label with date, agency, and title of proposal – 092621_SDE_TechRevisions)

State Agency: Connecticut Insurance Department (CID)

Liaison: Kristin Campanelli

Phone: (860)297-3864

E-mail: Kristin.Campanelli@ct.gov

Lead agency division requesting this proposal: CID Property & Casualty, Market Conduct, and Legal Divisions

Agency Analyst/Drafter of Proposal: Jared Kosky, General Counsel

Title of Proposal: An Act Concerning Value-Added Products or Services

Statutory Reference: C.G.S. §§ 38a-825 and 38a-623

Proposal Summary:

The proposal seeks to amend existing statutes that prohibit insurance companies and certain licensed persons from providing consideration or inducement not specified in the policy of insurance by creating an allowance for certain value-added products or services that have a legitimate nexus to the value of the insurance coverage, are designed to provide loss control, improve health, reduce risk, and other intents, and are provided in a fair and nondiscriminatory manner to insureds.

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?*
- (2) *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?*
- (3) *Have certain constituencies called for this action?*
- (4) *What would happen if this was not enacted in law this session?*

The National Association of Insurance Commissioners (NAIC) has developed and approved amendments to the NAIC Model Unfair Trade Practices Act that will allow for certain value-added products or services at no or reduced cost when such products or services are not referenced in the policy of insurance if they meet certain requirements. This proposal seeks to adopt those amendments.

◇ **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?

[Click here to enter text.](#)

PROPOSAL IMPACT

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

Agency Name: No other agencies affected

Agency Contact (name, title, phone): [Click here to enter text.](#)

Date Contacted: [Click here to enter text.](#)

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)*

No Impact

State

No Impact

Federal

No Impact

Additional notes on fiscal impact

[Click here to enter text.](#)



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

Although premium rebates or other special favors, consideration, or inducements not specified in a policy of insurance will be prohibited, in light of the technological advance and potential opportunities to provide innovative products and services to consumers, this proposal seeks to make allowances for insurers, health care centers and fraternal benefit societies and other licensed persons or entities to provide or offer value-added products or services for loss mitigation, rate or claim reduction, better health outcomes, etc. to insureds at no additional charge or at a discounted price.

◇ **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.

The Department will have the ability to track the types of value-added services or products being offered and will be provided with data which will show what if any beneficial outcomes derive from these (i.e., lower incident rates, rate reductions, etc.).

Insert fully drafted bill here

AN ACT CONCERNING VALUE-ADDED SERVICES OR PRODUCTS

Section 1. Section 38a-825 of the general statutes is repealed and the following is submitted in lieu thereof (Effective October 1, 2022):

(a) For the purposes of this section, "customer" means an applicant, certificate holder, insured, potential insured or potential certificate holder.

(b) Except as provided in subsection (c) or (d) of this section:

(1) No insurance company doing business in this state, [or] attorney, producer or any other person shall pay or allow, or offer to pay or allow, as inducement to insurance, any rebate of premium payable on the policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement not specified in the policy of insurance; [.] and

(2) No person shall; [receive]



(A) Receive or accept from any insurance company, [or] attorney, producer or any other person, as inducement to insurance, any [such] rebate of premium payable on the policy, or any special favor or advantage in the dividends or other [benefit] benefits to accrue thereon, or any valuable consideration or inducement not specified in the policy of insurance; [. No person shall be] or

(B) Be excused from testifying or from producing any books, papers, contracts, agreements or documents, at the trial of any other person charged with the violation of any provision of this section or of section 38a-446, on the ground that such testimony or evidence may tend to incriminate [him, but no person] such person, provided such person shall not be prosecuted for any act concerning which [he] such person is compelled to so testify or produce documentary or other evidence [, except] unless such prosecution is for perjury committed in so testifying.

(c) (1) An insurance company doing business in this state, attorney, producer or any other person may offer or provide to a customer in this state, at no cost or a reduced cost, a value-added product or service that is not specified in the customer's insurance policy if:

(A) Such value-added product or service:

(i) Relates to the insurance coverage provided under the customer's insurance policy; and

(ii) Is primarily designed to:

(I) Provide loss mitigation or loss control;

(II) Reduce claim costs or claim settlement costs;

(III) Provide education about liability risks or risk of loss to persons or property;

(IV) Monitor or assess risk, identify sources of risk or develop strategies for eliminating or reducing risk;

(V) Enhance health;

(VI) Enhance financial wellness through items including, but not limited to, education and financial planning services;

(VII) Provide post-loss services;



(VIII) Incentivize behavioral changes to improve the health, or reduce the risk of death or disability, of a customer; or

(IX) Assist in the administration of employee or retiree benefit insurance coverage;

(B) The cost to the insurance company, attorney, producer or other person offering or providing such value-added product or service for the customer is, in the opinion of the commissioner, reasonable in comparison to the customer's premiums or insurance coverage;

(C) The insurance company, attorney, producer or other person offering or providing such value-added product or service ensures that the customer receives contact information to assist the customer with questions regarding such value-added product or service;

(D) Such value-added product or service is offered and provided in a manner that, in the opinion of the commissioner, is not unfairly discriminatory; and

(E) The availability of such value-added product or service is based on documented and objective criteria, which the insurance company, attorney, producer or other person offering or providing such value-added product or service shall maintain and produce to the commissioner upon the commissioner's request for said criteria.

(2) If an insurance company doing business in this state, attorney, producer or other person does not have sufficient evidence to demonstrate to the commissioner that a value-added product or service satisfies the criteria established in subparagraph (A) of subdivision (1) of this subsection but believes, in good faith, that the value-added product or service satisfies said criteria, the insurance company, attorney, producer or other person may offer and provide such value-added product or service to customers in this state as part of a pilot or testing program for not more than one year, provided:

(A) Such value-added product or service is offered and provided to customers in a manner that, in the opinion of the commissioner, is not unfairly discriminatory; and

(B) Such insurance company, attorney, producer or other person:

(i) Provides advance notice to the commissioner, in a form and manner prescribed by the commissioner, that such insurance company, attorney, producer or other person intends to commence such pilot or testing program; and



(ii) Shall not commence such pilot or testing program if the commissioner notifies such insurance company, attorney, producer or other person, in a form and manner prescribed by the commissioner and not later than twenty-one days after the commissioner receives notice pursuant to subparagraph (B)(i) of this subdivision, that the commissioner has determined that such insurance company, attorney, producer or other person shall not commence such pilot or testing program.

(d) An insurance company doing business in this state, attorney, producer or any other person may offer or give a noncash gift, item or service to or on behalf of a customer:

(1) In connection with the marketing, sale, purchase or retention of a contract of insurance, provided:

(A) The cost of the noncash gift, item or service does not exceed an amount that the commissioner, in the commissioner's discretion, deems reasonable per policy year per term;

(B) The offer is made in a manner that, in the commissioner's opinion, is not unfairly discriminatory; and

(C) The customer is not required to purchase, continue to purchase or renew an insurance policy in exchange for the noncash gift, item or service; or

(2) To a commercial or institutional customer in connection with the marketing, purchase or retention of a contract of insurance, provided:

(A) The cost of the noncash gift, item or service is, in the commissioner's opinion, reasonable in comparison to the premium or proposed premium of the contract of insurance;

(B) The cost of the noncash gift, item or service is not included in any amount charged to another person;

(C) The offer is made in a manner that, in the commissioner's opinion, is not unfairly discriminatory; and

(D) The customer is not required to purchase, continue to purchase or renew an insurance policy in exchange for the noncash gift, item or service.



(e) No insurance company doing business in this state, or attorney, producer or any other person, shall:

(1) Offer or provide insurance as an inducement to purchase another policy; or

(2) Use the word "free", the phrase "no cost" or any word or phrase of similar import in any advertisement.

(f) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to carry out the purposes of this section.

Sec. 2. Section 38a-623 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2022*):

(a) For the purposes of this section, "customer" means an applicant, certificate holder, insured, potential insured or potential certificate holder.

(b) Except as provided in subsection (c) or (d) of this section:

(1) No society doing business in this state shall make or permit any unfair discrimination between insured members of the same class and equal expectation of life in the premiums charged for certificates of insurance, in the dividends or other benefits payable thereon or in any other of the terms and conditions of the contracts it makes; [.]

(2) No society, by itself, or any other party, and no agent or solicitor, personally, or by any other party, shall offer, promise, allow, give, set off or pay, directly or indirectly, any valuable consideration or inducement to or for insurance, on any risk authorized to be taken by such society, which is not specified in the certificate [.] of insurance; and

(3) No member shall receive or accept, directly or indirectly, any rebate of premium, or part thereof, or agent's or solicitor's commission thereon, payable on any certificate of insurance or receive or accept any favor or advantage or share in the dividends or other benefits to accrue on, or any valuable consideration or inducement not specified in, the contract of insurance.

(c) (1) A society, agent, solicitor or any other party may offer or provide to a customer in this state, at no cost or a reduced cost, a value-added product or service that is not specified in the customer's insurance policy if:



(A) Such value-added product or service:

(i) Relates to the insurance coverage provided under the customer's insurance policy; and

(ii) Is primarily designed to:

(I) Provide loss mitigation or loss control;

(II) Reduce claim costs or claim settlement costs;

(III) Provide education about liability risks or risk of loss to persons or property;

(IV) Monitor or assess risk, identify sources of risk or develop strategies for eliminating or reducing risk;

(V) Enhance health;

(VI) Enhance financial wellness through items including, but not limited to, education and financial planning services;

(VII) Provide post-loss services;

(VIII) Incentivize behavioral changes to improve the health, or reduce the risk of death or disability, of a customer; or

(IX) Assist in the administration of employee or retiree benefit insurance coverage;

(B) The cost to the society, agent, solicitor or other party offering or providing such value-added product or service for the customer is, in the opinion of the commissioner, reasonable in comparison to the customer's premiums or insurance coverage;

(C) The society, agent, solicitor or other party offering or providing such value-added product or service ensures that the customer receives contact information to assist the customer with questions regarding such value-added product or service;

(D) Such value-added product or service is offered and provided in a manner that, in the opinion of the commissioner, is not unfairly discriminatory; and



(E) The availability of such value-added product or service is based on documented and objective criteria, which the society, agent, solicitor or other party offering or providing such value-added product or service shall maintain and produce to the commissioner upon the commissioner's request for said criteria.

(2) If a society, agent, solicitor or any other party does not have sufficient evidence to demonstrate to the commissioner that a value-added product or service satisfies the criteria established in subparagraph (A) of subdivision (1) of this subsection but believes, in good faith, that the value-added product or service satisfies said criteria, the society, agent, solicitor or other party may offer and provide such value-added product or service to customers in this state as part of a pilot or testing program for not more than one year, provided:

(A) Such value-added product or service is offered and provided to customers in a manner that, in the opinion of the commissioner, is not unfairly discriminatory; and

(B) Such society, agent, solicitor or other party:

(i) Provides advance notice to the commissioner, in a form and manner prescribed by the commissioner, that such society, agent, solicitor or other party intends to commence such pilot or testing program; and

(ii) Shall not commence such pilot or testing program if the commissioner notifies such society, agent, solicitor or other party, in a form and manner prescribed by the commissioner and not later than twenty-one days after the commissioner receives notice pursuant to subparagraph (B)(i) of this subdivision, that the commissioner has determined that such society, agent, solicitor or other party shall not commence such pilot or testing program.

(d) A society, agent, solicitor or any other party may offer or give a noncash gift, item or service to or on behalf of a customer:

(1) In connection with the marketing, sale, purchase or retention of a contract of insurance, provided:

(A) The cost of the noncash gift, item or service does not exceed an amount that the commissioner, in the commissioner's discretion, deems reasonable per policy year per term;

(B) The offer is made in a manner that, in the commissioner's opinion, is not unfairly discriminatory; and



(C) The customer is not required to purchase, continue to purchase or renew an insurance policy in exchange for the noncash gift, item or service; or

(2) To a commercial or institutional customer in connection with the marketing, purchase or retention of a contract of insurance, provided:

(A) The cost of the noncash gift, item or service is, in the commissioner's opinion, reasonable in comparison to the premium or proposed premium of the contract of insurance;

(B) The cost of the noncash gift, item or service is not included in any amount charged to another person;

(C) The offer is made in a manner that, in the commissioner's opinion, is not unfairly discriminatory; and

(D) The customer is not required to purchase, continue to purchase or renew an insurance policy in exchange for the noncash gift, item or service.

(e) No society, agent, solicitor or any other party shall:

(1) Offer or provide insurance as an inducement to purchase another policy; or

(2) Use the word "free", the phrase "no cost" or any word or phrase of similar import in any advertisement.

(f) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to carry out the purposes of this section.