

Regulations of Connecticut State Agencies

TITLE 38a. Insurance Department

Agency

Insurance Department

Subject

Organization and Rules of Practice

Inclusive Sections

§§ 38a-8-1—38a-8-126

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Organization and Rules of Practice

ARTICLE I

DESCRIPTION OF ORGANIZATION AND PUBLIC INFORMATION

Sec. 38a-8-1. Duties and authority of insurance department

The mission of the Insurance Department is to serve consumers in a professional and timely manner by providing assistance and information to the public and to policy makers, by regulating the insurance industry in a fair, flexible and efficient manner that promotes a competitive and financially sound insurance market for consumers, and by enforcing the insurance laws to ensure that consumers are treated fairly and are protected from unfair practices. The Insurance Department shall act on the Insurance Commissioner's behalf and at his or her direction to fulfill the Commissioner's responsibilities under Title 38a of the Connecticut General Statutes. As such, the insurance department's duties and authority are primarily set out in Title 38a of the Connecticut General Statutes. It is the primary function of the Insurance Department to see that all laws regarding insurance are complied with and that the public interest is protected by the enforcement of the insurance laws and all implementing regulations.

(Effective September 25, 1992; Amended February 1, 2001; Amended September 9, 2008)

Sec. 38a-8-2. Basic organization

The Insurance Department consists of the office of the Commissioner and eight divisions which are as follows:

(1) Administration Division—responsible for all functions relating to accounting, budget and fiscal services, payroll and personnel procedures, and computer support for the Insurance Department.

(2) Legal Division — in consultation with the Office of the Attorney General, provides legal advice and related services to the Commissioner and each division of the Insurance Department. The division also provides oversight of insurance company receiverships and insurance guaranty associations.

(3) Financial Regulation Division—consists of three units: the Financial Analysis Unit; the Financial Examinations Unit; and the Financial Actuarial Unit. (A) The Financial Analysis Unit determines the eligibility of insurance companies applying for a certificate of authority to do an insurance business in Connecticut, and monitors the financial condition of admitted domestic and foreign insurance companies, health care centers, fraternal benefit societies and eligible surplus lines insurers through the analysis of financial statements, and other information required by statute. (B) The Financial Examinations Unit conducts on-site financial examinations of domestic entities to ensure that such entities remain solvent and capable of meeting their contractual obligations to policyholders and claimants. (C) The Financial Actuarial Unit participates in the financial analysis and the financial examinations of domestic insurance entities to ensure the ongoing solvency of such entities.

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(4) Life and Health Division — reviews all group and individual life and health insurance policies and rates of licensed insurance companies, fraternal benefit societies, hospital or medical corporations, and health care centers as required by statute. Approves all such policies prior to being offered in Connecticut. Approves rates for health care center subscriber agreements, individual accident and health policies, Medicare supplement policies and individual long-term care policies. Rates for group long-term care policies shall be filed and are subject to disapproval by the Commissioner. Approves deviations from the prima facie rates for credit life and health. Licenses utilization review companies. Publishes annual comparison of managed care organizations.

(5) Division of Rate Review - Property and Casualty — examines property and casualty rates, rules, policy forms and underwriting guidelines to ensure that insurance products sold in Connecticut by licensed companies comply with statutory requirements. Reviews rates of residual market providers including the Workers' Compensation Assigned Risk Plan, the Connecticut Automobile Insurance Assigned Risk Plan, and the Fair Access to Insurance Requirements Plan. Licenses and examines rating, advisory and joint underwriting organizations and self-insured pools and plans.

(6) Licensing and Market Conduct Division - consists of three units: the Licensing Unit; the Market Conduct Unit; and the Insurance Fraud Unit. (A) The Licensing Unit ensures that only competent and trustworthy persons are licensed to perform insurance services in Connecticut through the determination of eligibility of persons seeking licensure to act as an insurance producer, surplus lines broker, public adjuster, casualty claims adjuster, motor vehicle physical damage appraiser, fraternal agent, certified insurance consultant, surety bail bond agent, life settlement provider, life settlement broker, reinsurance intermediary, and licensure of other persons authorized under Title 38a of the Connecticut General Statutes. The unit also administers a program of continuing education for insurance producers in order to make certain that all Connecticut producers continue to remain informed of insurance industry issues and trends as well as Connecticut statutory and regulatory changes. (B) The Market Conduct Unit examines the affairs and conduct of insurance companies, health care centers, fraternal benefit societies and medical utilization review companies authorized to do business in Connecticut, for the purpose of analyzing the treatment of Connecticut policyholders and claimants. The unit also investigates and prosecutes alleged infractions of licensing laws pertaining to individuals or organizations, and allegations of fraud. (C) The Insurance Fraud Unit receives, gathers and reports data on patterns of insurance fraud in Connecticut, and develops and provides outreach programs implemented to aid the public in recognizing, avoiding and reporting suspected insurance fraud.

(7) Consumer Affairs Division - receives and reviews complaints from residents of Connecticut concerning their insurance problems, including claims disputes, serves as a mediator in such disputes in order to determine whether statutory and contractual obligations have been fulfilled, and administers external grievance process and oversees expedited review process for managed care plans. Provides an independent arbitration procedure for:

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(A) the settlement of disputes between claimants and insurance companies concerning automobile physical damage and automobile property damage liability claims in which liability and coverage are not in dispute; and (B) the resolution of disputes arising out of extended warranty contracts.

(8) Captive Insurance Division – evaluates candidates for captive insurance licenses, regulates and examines the captive insurers and risk retention groups in the alternative risk market for Connecticut.

(Effective September 25, 1992; Amended February 1, 2001; Amended September 9, 2008; Amended March 16, 2015)

Sec. 38a-8-3. Duties and method of operations

(a) **Commissioner.** The Insurance Commissioner is the department head in accordance with section 4-5 of the Connecticut General Statutes and administers the provisions of Title 38a of the Connecticut General Statutes in accordance with section 4-8 of the Connecticut General Statutes. In carrying out his or her official duties, the Commissioner may delegate his or her authority to a deputy commissioner, chief of staff, a division of the department, an individual division director, a hearing officer or an examiner when appropriate. Such person shall serve as his or her designee at the pleasure of the Commissioner.

(b) **Administration Division.** The Administration Division:

- (1) maintains accounting records of department;
- (2) prepares and maintains payroll records for department;
- (3) prepares budget for department;
- (4) is responsible for mail, supplies, and other related support activities;
- (5) processes receipts from fees collected from insurers and producers;
- (6) processes taxes collected from surplus lines brokers and unauthorized insurers;
- (7) maintains staff recruitment, classification and compensation;
- (8) administers collective bargaining contracts;
- (9) administers personnel policy and procedures, investigates complaints of misconduct;
- (10) administers grievances;
- (11) processes time and attendance for department;
- (12) provides information technology support; and
- (13) performs other related duties as assigned by the Commissioner.

(c) **Financial Regulation Division.** The Financial Regulation Division:

(1) examines, reviews and analyzes the affairs and records of all insurance companies, fraternal benefit societies, health care centers, nonprofit hospital and medical service corporations, interlocal risk management agencies, and employers' mutual associations for solvency and compliance with applicable statutes, and issues appropriate licenses to conduct business in this state;

(2) reviews all applications submitted by domestic and foreign insurance companies and fraternal benefit societies and health care centers that desire to become licensed in this state;

(3) verifies, annually, the life insurance reserves held by all Connecticut chartered life

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insurance companies;

(4) receives and reviews registration statements as well as receives, reviews and approves or disapproves material transactions of insurance companies that are part of a holding company system;

(5) receives and reviews applications from insurance companies involved in mergers and tender offers;

(6) maintains records of insurance companies licensed in Connecticut and furnishes information regarding status of companies; and

(7) performs other related duties as assigned by the Commissioner.

(d) **Life and Health Division.** The Life and Health Division:

(1) accepts for filing, and approves or disapproves, all life and accident and health policy forms that licensed insurance companies, fraternal benefit societies, hospital or medical service corporations, and health care centers intend to sell in this state, and all contracts and disclosure statements that life settlement companies intend to use in the state, and approves or disapproves health care center, individual accident and health, credit life and health, individual long-term care, and Medicare supplement premium rates. Accepts for filing and has authority to disapprove group long-term care premium rates;

(2) accepts for filing reporting requirements, and publishes the annual comparison of managed care organizations;

(3) licenses utilization review companies; and

(4) performs other related duties as assigned by the Commissioner.

(e) **Division of Rate Review - Property and Casualty.** The Division of Rate Review - Property and Casualty:

(1) reviews and accepts or disapproves all policy forms, endorsements, rules, rates, and rating plans used by property and casualty insurance companies involving all lines of property and casualty insurance;

(2) licenses rating and advisory organizations, and, in addition, periodically examines the affairs of such organizations;

(3) approves statistical plans of insurers or rating organizations for the recording and reporting of loss and expense experience;

(4) investigates complaints involving rates and rating plans as well as complaints about individual policies;

(5) supervises the Connecticut Fair Access to Insurance Requirements Plan, Workers' Compensation Assigned Risk Plan, the Connecticut Automobile Insurance Assigned Risk Plan and approves rates, rules, forms, and rating plans to be used therein;

(6) approves the forms, rules, rates, and administration of the Connecticut Fair Access to Insurance Requirements Plan to determine that fire insurance is available to all Connecticut residents at a reasonable cost; and

(7) performs other related duties as assigned by the Commissioner.

(f) **Licensing and Market Conduct Division.**

(1) The Licensing Unit:

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- (A) issues the following licenses:
- (i) insurance producers, under chapter 701a and chapter 702, part II, of the Connecticut General Statutes;
 - (ii) public adjusters, under chapter 701b and chapter 702, part IV, of the Connecticut General Statutes;
 - (iii) reinsurance intermediaries, under chapter 701e of the Connecticut General Statutes;
 - (iv) casualty claims adjusters, under chapter 702, part VI, of the Connecticut General Statutes;
 - (v) surplus lines brokers, under chapter 701d and chapter 702, part VII, of the Connecticut General Statutes;
 - (vi) fraternal agents, under chapter 701f and chapter 702, part IX, of the Connecticut General Statutes;
 - (vii) motor vehicle physical damage appraisers, under chapter 702, part VI, of the Connecticut General Statutes;
 - (viii) certified insurance consultants under chapter 701c and chapter 702, part III, of the Connecticut General Statutes;
 - (ix) insurance premium finance companies, under the provisions of chapter 698, part VII, of the Connecticut General Statutes;
 - (x) life settlement providers and brokers under chapter 700b of the Connecticut General Statutes; and
 - (xi) other licenses authorized under Title 38a of the Connecticut General Statutes.
- (B) issues to applicants and insurers instructions regarding eligibility requirements necessary for the type of license applied for, in accordance with the statutes cited; and
- (C) determines the qualification of applicants with due regard to the public interest and coordinates and administers qualifying examinations as required by the cited statutes.
- (2) The Market Conduct Unit:
investigates complaints against all licensees; prepares cases for presentation at department hearings; enforces compliance with licensing laws and regulations and other laws with the provisions of Title 38a of the Connecticut General Statutes.
- (3) The Insurance Fraud Unit:
receives information, analyzes and reports data relating to insurance fraud in Connecticut; provides education to the public on how to recognize, avoid and report insurance fraud and licenses medical discount plans and pharmacy benefit managers.
- (g) **Consumer Affairs Division.** The Consumer Services Unit:
- (1) receives, reviews and responds to complaints and inquiries from state residents concerning insurance related problems. The staff examines each complaint to determine whether statutory requirements and contractual obligations within the Commissioner's jurisdiction have been fulfilled. The Consumer Services Unit coordinates the resources available within the department to fully address consumer complaints; and
 - (2) conducts outreach programs deemed necessary to properly inform and educate the public on insurance matters.

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(h) **Legal Division.** The Legal Division provides legal advice and related services to the Commissioner and the eight divisions of the Insurance Department on a broad spectrum of issues that arise in regulating the insurance industry and in providing services to the consumer. In doing so, the legal staff of this office drafts, monitors and analyzes legislation; drafts and promulgates regulations; and participates in department hearings involving rates, license enforcement, and acquisitions of domestic insurance companies. The legal division also manages insurance company receiverships on behalf of the Commissioner upon his or her appointment by the Superior Court as receiver and provides oversight of the insurance guaranty associations and in doing so, keeps the staff of the consumer affairs division, and other department staff, informed on developments so they may properly service the inquiries and complaints of consumers.

(i) **Captive Insurance Division.** The Captive Insurance Division:

(1) provides a structured regulatory process for the initial evaluation of, licensing of, reporting by and examination of captive insurance companies domiciled in Connecticut;

(2) assesses and evaluates the strategies and their execution by captive insurance entities, to help ensure operational success and sustained financial strength;

(3) works to protect the consumer and beneficiaries of captive insurance companies by ensuring that the insurance or risk financing entities can meet their contractual and financial obligations;

(4) seeks to understand the impacts of financial, operational and underwriting (risk acceptance) challenges on captive and risk retention group capital and their related costs;

(5) establishes standards for business and professional support organizations that work with captive entities in Connecticut, including actuaries, captive managers, accountants, and auditors; and

(6) supports a business environment for the growth and prosperity of the captive insurance industry in Connecticut.

(Effective September 25, 1992; Amended February 1, 2001; Amended September 9, 2008; Amended March 16, 2015)

Sec. 38a-8-4. Location of principal office

The Insurance Department is located at 153 Market Street (960 Main Building), 7th Floor, Hartford, Connecticut 06103. The Insurance Department's mailing address is P.O. Box 816, Hartford, Connecticut 06142-0816. Normal business hours are from 8:00 a.m. to 5:00 p.m. daily except Saturdays, Sundays, and holidays.

(Effective September 25, 1992; Amended February 1, 2001; Amended September 9, 2008)

Sec. 38a-8-5. Public information

The policy of the Insurance Department, in accordance with the Freedom of Information Act, chapter 14 of the Connecticut General Statutes, is to make available for public inspection all files, records, and documents and other materials within its possession, unless

prohibited by law.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-6. Insurance department bulletins

Any person or group may file a request with the Commissioner to be placed on a mailing list to receive Insurance Department Bulletins. Such request shall be in effect only for the calendar year in which it was filed and all requests shall expire on December 31 each year. The fee for being placed on the mailing list for all Insurance Department Bulletins shall be \$20.00 per year and each request shall be accompanied by a check or money order payable to the Treasurer, State of Connecticut.

(Effective September 25, 1992; Amended February 1, 2001)

ARTICLE II

SCOPE AND CONSTRUCTION OF RULES

Part I

General Provisions

Sec. 38a-8-7. Procedure governed

Section 38a-8-7 to section 38a-8-75, inclusive, of the Regulations of Connecticut State Agencies govern practice and procedure before the Insurance Commissioner or any division of the Insurance Department, an individual division head or a hearing officer, under the applicable laws of the State of Connecticut, and except where by statute otherwise provided.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-8. Definitions

(a) As used in section 38a-8-1 to section 38a-8-75, inclusive, of the Regulations of Connecticut State Agencies, the following words and phrases shall have the same definitions as those contained in chapter 54 of the Connecticut General Statutes: “contested case,” “final decision,” “hearing officer,” “intervenor,” “license,” “party,” “person,” “presiding officer,” “proposed final decision,” “proposed regulation,” “regulation,” and “regulation-making.”

(b) In addition, as used in section 38a-8-1 to section 38a-8-75, inclusive, of the Regulations of Connecticut State Agencies, the following words and phrases shall have the following meanings, except where any such word or phrase is used in a context which clearly indicates the contrary:

(1) “Appellant” means a person who takes an appeal to the Insurance Commissioner from a decision or ruling of the manager or committee designated to operate a residual market mechanism;

(2) “Applicant” means a party applying for any license, right or authority from the

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Insurance Commissioner;

(3) “Commissioner” means the Insurance Commissioner;

(4) “Complainant” means any person who complains to the Insurance Commissioner of any alleged act or omission in violation of insurance law, regulations or order of the Insurance Commissioner;

(5) “Hearing” means that portion of the department’s procedures in the disposition of matters delegated to its jurisdiction by law wherein an opportunity, as deemed appropriate by the presiding officer, for presentation of evidence and argument occurs;

(6) “Non conforming” means not in compliance with applicable provisions of the General Statutes or implementing regulations;

(7) “Petitioner” means a person who has filed a petition with the Insurance Department seeking relief from the Insurance Commissioner;

(8) “Residual market mechanism” means an association, organization or other entity defined or described in sections 38a-328, 38a-329 and 38a-670 of the Connecticut General Statutes;

(9) “Respondent” means a person against whom an order or a proceeding is directed; and

((10))

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-9. Waiver of rules

Where good cause appears, the Commissioner or any presiding officer may permit deviation from the rules of practice, except where precluded by law.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-10. Construction and amendment

The rules of practice shall be construed by the Commissioner and any presiding officer as to secure just, speedy, and inexpensive determination of the issues presented hereunder. Amendments and additions to the rules of practice may be adopted by the Commissioner by being duly promulgated as regulations in accordance with Chapter 54 of the Connecticut General Statutes.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-11. Computation of time

Computation of any period of time referred to in the rules of practice begins with the first day following that on which the act which initiates such period of time occurs and ends on the last day of the period so computed. This last day of that period is to be included unless it is a day on which the office of the department is closed, in which event the period shall run until the end of the next following business day. When such period of time, with the intervening Saturdays, Sundays, and legal holidays counted, is five (5) days or less, such Saturdays, Sundays, and legal holidays shall be excluded from the computation; otherwise

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such days shall be included in the computation.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-12. Extension of time

In the discretion of the Commissioner, or the presiding officer, for good cause shown any time limit prescribed or allowed by the rules of practice may be extended. All requests for extensions shall be made before the expiration of the period originally prescribed or as previously extended. The Commissioner shall cause all parties to be notified of the action upon any such motion.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-13. Effect of filing

(a) The filing with the department of any application, petition, complaint, request for declaratory ruling or any other filing of any nature whatsoever shall not relieve any person of the obligation to comply with any statute, regulation or order of the Commissioner.

(b) Unless the Commissioner provides otherwise in writing, accepting the filing of any non-conforming petition, application, exhibit, annex or document of any kind whatsoever, shall not be construed as a waiver of compliance with these rules.

(c) Any petition or application filed for the purpose of securing from the Commissioner an approval or grant of permission under the rules of practice and any supporting evidence annexed or filed as part of such petition or application shall be part of the public records of the department as defined by section 1-200 of the Connecticut General Statutes, except when expressly excluded by the provisions of section 1-210(b) of the Connecticut General Statutes, or other statutes. Such public record shall include and not be limited to all written forms, required components, pre-filed testimony, exhibits, and other evidence attached to the application as part thereof.

(Effective September 25, 1992; Amended February 1, 2001)

Part 2

Formal Requirements

Sec. 38a-8-14. Date of filing

All orders, decisions, findings of fact, correspondence, motions, petitions, applications, and any other documents governed by the rules of practice, including rate applications and applications for approval as hereinafter defined, shall be deemed to have been filed or received on the date on which they are issued or received by the department or the Commissioner at its principal office, except as hereinafter provided.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-15. Identification of communications

Communications should embrace only one matter and shall contain the name and address of the sender and an appropriate file reference to the subject of the communication. When the subject matter pertains to a proceeding pending before the insurance department, the title of the proceeding and the department docket number should be given.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-16. Signatures

Every application, notice, motion, petition, brief, memorandum and other communications shall be signed by the filing person or by one or more attorneys in their individual names on behalf of the filing person.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-17. Formal requirements as to documents and other papers filed in proceedings

(a) **Copies.** Except for routine correspondence and inquiries by the public, and as may be otherwise required by the rules of practice or by any other rules or regulations of the Commissioner or as ordered or expressly requested by the Commissioner, at the time motions, petitions, applications, documents or other papers are filed with the Commissioner, there shall be furnished to the Commissioner the original of such papers. In addition to the original, there shall also be filed four (4) copies for the use of the department, the staff, and the public, unless a greater or lesser number of such copies is expressly requested by the Commissioner.

(b) **Form.** Except for such forms as may from time to time be provided or adopted by the department and used where appropriate, all documents and papers including but not limited to motions, petitions, applications, notices, briefs, exhibits, and all other written materials filed for the purpose of any proceeding before the department shall be on only one side of eight and one half by eleven inch (8^{1/2}“ x 11”) paper, unless pre-printed, and shall be double spaced. Reproduced copies of the original documents will be accepted provided all copies filed are clear and permanently legible.

(c) **Filing.** All motions, petitions, applications, documents or other papers relating to matters requiring action by the Commissioner or the department shall be filed with the Commissioner, at the Department’s principal office.

(d) Failure to comply with the provisions of this section shall constitute a deficiency in filing and as such shall be subject to the regulations governing that contingency.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-18. Service

(a) **General rule.** Service of all documents and other papers filed in all contested cases, including but not limited to motions, petitions, applications, notices, briefs, and exhibits shall be by personal delivery, first class mail or other manner as determined by the

Commissioner, except as otherwise provided by law.

(b) **On whom served.** In addition to the filing of such documents and papers by the person filing an original plus four (4) copies on the Commissioner, one copy shall be served by personal delivery, first class mail or other manner as determined by the Commissioner on every person that has theretofore been designated a party or intervenor in the proceeding. Certification of such service shall be endorsed on all documents and other papers when filed with the Commissioner.

(c) **Service by the Commissioner.** A copy of any documents or other papers served by the Commissioner showing the addresses to whom the document or other paper was mailed and the date of mailing shall be placed in the department's files and shall be prima facie evidence of such service and the date thereof.

(d) **Service as written notice.** Written notice of all orders, decisions or authorizations, issued by the Commissioner, shall be given to the party affected thereby and to such other person as the Commissioner may deem appropriate by personal service upon such person, first class mail or other manner determined by the Commissioner.

(Effective September 25, 1992; Amended February 1, 2001)

ARTICLE III

REQUIREMENTS FOR APPLICATIONS AND PETITIONS

Part I

General Provisions

Sec. 38a-8-19. General rule

Petitions and applications shall include all proposals, requests, applications, petitions, and filings of whatever nature that are placed before the Commissioner or the Insurance Department pursuant to law including, but not limited to, petitions for declaratory ruling, petitions for regulation, applications for any license, and applications for approval of rates or contracts.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-20. Function of application

The petition or application and annexed materials may be treated by the department as a substantially complete statement of the case in chief of the applicant or petitioner.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-21. Required components, general

(a) **Form.** The form to be followed in the filing of petitions and applications hereunder will vary to the extent necessary to provide for the nature of the legal rights, duties or privileges involved therein. In addition to the special provisions for particular types of

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petitions and applications provided by the rules of practice, all petitions and applications shall include the following components:

(1) Each petition or application shall incorporate a statement setting forth clearly and concisely the authorization or other relief sought. The statement shall cite by appropriate reference the statutory provision or other authority under which such authorization or relief is to be granted by the Commissioner.

(2) The exact legal name of each person seeking the authorization or relief and the address or principal place of business of each such person. If any applicant or petitioner is a corporation, trust association or other organized group, it shall also give the state under the laws of which it was created or organized.

(3) The name, title, address and telephone number of the attorney or other person to whom correspondence or communications in regard to the petition or application shall be addressed. Notice, orders and other papers may be served upon the person so named; and such service shall be deemed to be service upon the petitioner or applicant.

(4) A concise and explicit statement of the facts on which the Commissioner is expected to rely in granting the authorization or other relief sought.

(5) An explanation of any unusual circumstances involved in the petition or application to which the Commissioner will be expected to direct particular attention, including the existence of emergency conditions or any request for the granting of interlocutory relief by way of an interim order in the proceeding.

(b) **Annexed materials.** There shall be attached to the petition or application and filed as part thereof any and all exhibits, sworn written testimony, data, models, illustrations and all other materials that the petitioner or applicant deems necessary or desirable to support the granting of the petition or application. In addition, such annexed materials shall also include such exhibits, sworn written testimony, and other data that any statute or the rules of practice may require for the lawful determination of the petition or application.

(c) **Additional evidence submitted.** The enumeration of required items herein set forth as the minimum evidentiary submission shall not preclude the submission of additional evidence with the petition or application.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-22. Original records

When so required, the petitioner or applicant shall furnish and make available for the use of the department the original books, papers, and documents from which any evidence supporting the granting of the petition or application is derived. Failure to furnish records as directed may be grounds for rejecting any component and, if appropriate, for the entry of a decision denying the petition or application.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-23. Fees

(a) All application fees or other charges required or authorized by law shall be paid to

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the Commissioner by check or money order made payable to the Treasurer, State of Connecticut, at the time that the application is filed, unless otherwise required by law.

(b) Except as otherwise provided by law, if the Commissioner finds that any application received from an applicant does not conform to law, the Commissioner may return it, with any fee that was submitted with it, to the applicant for correction.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-24. Date of filing, components, deficiencies

(a) The date of filing of any application with the department shall be the date that the application is received by the Commissioner.

(b) An application shall consist of all the required components and any special components set forth in the rules of practice.

(c) Any application or petition which is incomplete or not in conformity with the rules of practice may be rejected by the Commissioner.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-25. Reserved

Part 2

Special Provisions

Sec. 38a-8-26. Petition requesting the promulgation, amendment or repeal of regulations

(a) **General.** Any interested person may at any time petition the Commissioner requesting the promulgation, amendment or repeal of a regulation.

(b) **Form.** The petition shall conform to the general provisions of the rules of practice where applicable and, in addition, shall set forth clearly and concisely the text of the proposed regulation or amendment or the provisions sought to be repealed. The petition shall also state the facts and arguments on which the petitioner relies either in the petition or in a brief annexed thereto.

(c) **Decision on petition.** Not more than thirty (30) days after receipt of the petition, the Commissioner shall determine whether to deny the petition or to initiate regulation making proceedings in accordance with law.

(d) **Procedure on denial.** If the Commissioner denies the petition, the Commissioner shall give the petitioner notice in writing, stating the reasons for the denial.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-27. Petition for declaratory ruling

(a) **General.** The rules of practice set forth the procedure to be followed by the Commissioner in the disposition of requests for declaratory rulings as to the validity of any regulation, or the applicability of any statutory provision or of any regulation or order of

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the Commissioner.

(b) **Form of petition for declaratory ruling.** Any person may at any time request a declaratory ruling from the Commissioner with respect to the validity of any regulation, or applicability to such person of any statute, regulation or order enforced, administered or promulgated by the Commissioner. Such request shall be filed in accordance with the applicable provisions of the rules of practice and shall in addition:

- (1) state clearly and concisely the substance and nature of the request;
- (2) identify the statute, regulation or order concerning which the inquiry is made; and
- (3) identify the particular aspect thereof to which the inquiry is directed. The request for an advisory ruling shall be accompanied by a statement of any supporting data, facts, and arguments that support the position of the person making the inquiry.

(c) **Notice to other persons.** The Commissioner may give notice to any person that such a declaratory ruling has been requested and may receive and consider data, facts, arguments, and opinions from persons other than the person requesting the ruling.

(d) **Decision on petition.** Not more than sixty days after receipt of a petition for declaratory ruling, the Commissioner in writing shall:

- (1) issue a ruling declaring the validity of a regulation or the applicability of the provision of the general statutes, the regulation or final decision in question to the specified circumstances;
- (2) order the matter set for specified proceedings, including a hearing;
- (3) agree to issue a declaratory ruling by a specified date;
- (4) decide not to issue a declaratory ruling and initiate regulation-making proceedings under sec. 4-168 of the Connecticut General Statutes, on the subject; or
- (5) decide not to issue a declaratory ruling, stating the reasons for his or her action.

(e) **Provision for hearing.** If the Commissioner deems a hearing necessary or helpful in determining any issue concerning the request for a declaratory ruling, the Commissioner shall schedule such hearing and give such notice thereof as shall be appropriate. The provisions of Article IV, Parts 1 and 2, of the rules of practice, shall govern the practice and procedure of the Commissioner in any hearing concerning a declaratory ruling.

(f) **Decision on petition, ruling denied.** If the Commissioner determines that a declaratory ruling will not be rendered, the Commissioner shall notify the person so inquiring that the request has been denied not later than thirty (30) days after the Commissioner's determination.

(g) **Decision on petition, ruling granted.** If the Commissioner renders a declaratory ruling, a copy of the ruling shall be sent to the person requesting it and to that person's attorney, if any, and to any other person who has filed a written request for a copy with the Commissioner.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-28—38a-8-29. Reserved

ARTICLE IV

HEARINGS

Part I

General Provisions

Sec. 38a-8-30. Calendar of hearings

The Commissioner shall maintain a docket of all proceedings of the Department. The Commissioner shall maintain a hearing calendar of all proceedings that are to receive a hearing. Proceedings shall be placed on the hearing calendar in the order in which the proceedings are listed on the docket of the department, unless otherwise ordered by the Commissioner. The Department shall maintain a calendar of scheduled hearings. The Department shall give notice by mail of each hearing, at least one week prior to the date set for such hearing, to any person who has filed a written request for such notice with the Department, except that the Department may give notice as it deems practical of hearings called less than seven days prior to the date set for such hearing. Any request for notice filed pursuant to this section shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests shall be filed within thirty days after January 1 of each year pursuant to section 1-227 of the Connecticut General Statutes. The charge for fulfilling the requests of those persons who have requested written notice of hearings is \$20.00 per year.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-31. Public hearing; hearing location; recording, broadcasting or photographing hearings

- (a) Unless otherwise provided by statute, all hearings shall be open to the public.
- (b) Unless by statute or by direction of the Commissioner a different place is designated, all hearings of the department shall be held at Hartford at the Office of the Commissioner.
- (c) At any public hearing, the Commissioner or presiding officer may direct that any recording, radio, television or broadcasting equipment is to be placed in a stationery location and handled in such a manner as possible so as not to disturb the proceedings or create a safety hazard.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-32. Notice of hearings

Notice of a hearing shall include but not be limited to the following:

- (1) A statement of the time, place, and nature of the hearing;
- (2) A statement of the legal authority and jurisdiction under which the hearing is to be

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held;

(3) A reference to the particular sections of the statutes and regulations involved;

(4) A short and plain statement of fact describing the nature of the hearing and the principal facts to be asserted therein, except that in the case of applications and petitions, the Commissioner may refer to or annex the application or petition.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-33. Appearance and representation

(a) **Taking appearances.** Parties shall enter their appearance at the beginning of the proceedings or at such time as may be designated by the Commissioner by giving their names and addresses and stating their positions or intentions in the proceedings.

(b) **Representation of parties.**

(1) An individual who is a party to a proceeding may represent himself or herself. A bona fide officer designated by a partnership, corporation, association, or an employee of a governmental subdivision or agency that is a party to a proceeding, may represent that party's interest in the proceeding.

(2) A person may be represented in any proceeding by an attorney at law admitted to practice in this state. An attorney admitted to practice in the highest court of any other state may also be allowed to represent any person in a proceeding before the Commissioner in the discretion of the Commissioner and upon proper application to the Commissioner.

(3) An attorney or other authorized representative of a party shall file a Notice of Appearance with the Commissioner in the following form, except that a Notice of Appearance shall not be required of an attorney representing the insurance department in such proceedings:

STATE OF CONNECTICUT
INSURANCE DEPARTMENT

In the Matter of:

Docket No. _____

NOTICE OF APPEARANCE

Please enter my appearance in the above-designated matter on behalf of _____.
I am authorized to accept service on behalf of said participation in this matter.

Signature

Name (Printed)

P.O. box/address

City, state and zip code

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Telephone number (including area code)

E-mail address

After a notice of appearance has been filed in accordance with this section, copies of all pleadings, notices, rulings, or decisions shall be served on each and every person named in the notices of appearance.

(Effective September 25, 1992; Amended February 1, 2001; Amended August 5, 2009; Amended September 9, 2013)

Sec. 38a-8-34. Consolidation of proceedings

Proceedings involving related questions of law or fact may be consolidated at the direction of the Commissioner.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-35. Ex parte communications

(a) Unless required for the disposition ex parte of matters authorized by law, neither the Commissioner nor any presiding officer shall communicate directly or indirectly with any person or party concerning any issue of fact or law involved in any contested case that has been commenced under these rules, except upon notice and opportunity for all parties to participate.

(b) Any hearing officer or presiding officer and the Commissioner may severally communicate with each other ex parte and may have the aid and advice of such members of the staff as are assigned to assist them in such contested case. This rule shall not be construed to preclude such necessary routine communications as are necessary to permit the staff to investigate facts and to audit the applicable records of any party in a contested case at any time before, during, and after the hearing thereof.

(c) Unless required for the disposition of ex parte matters authorized by law, no party or intervenor in a contested case, and no person who has a direct or indirect interest in the outcome of the case, shall communicate, directly or indirectly, in connection with any issue in that case, with the Commissioner, a hearing officer or with any employee or agent of the Insurance Department assigned to assist the hearing officer or Commissioner in such case, without notice and opportunity for all parties to participate in the communication.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-36. Continuance of hearing

On motion of the Commissioner, or presiding officer, or that of any party, the hearing may be adjourned or continued on such terms as the Commissioner or presiding officer may require.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-37. Amendment of notice of hearing

The Commissioner may amend any notice of hearing to incorporate additional matters or allegations and may continue or postpone the hearing for such reasonable time as justice requires to allow the parties to respond to such additional matters or allegations.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-38. Pre-hearing conference

(a) The Commissioner or presiding officer may, in his or her discretion, order counsel or any party to meet for a pre-hearing conference. Such conference may be held with one or more persons participating by telephone or other remote means.

(b) At a pre-hearing conference, the Commissioner or presiding officer may consider and take action with respect to any or all of the following: (1) simplification and clarification of the issues; (2) exchange of witnesses and exhibit list and copies of exhibits; (3) stipulations, admissions of fact, and stipulations concerning the contents, authenticity, or admissibility into evidence of documents; (4) matters of which official notice may be taken; (5) the schedule for exchanging pre-hearing motions or briefs, if any; (6) the method of service and filing of papers by the parties; (7) determination of hearing dates; (8) amendments to the complaint or answers thereto; (9) such other matters as may aid in the orderly and expeditious disposition of the proceeding.

(c) With respect to Insurance Department enforcement proceedings, an initial pre-hearing conference, unless determined by the presiding officer to be unnecessary or premature, shall be held within twenty-one days after filing of an answer. When a complaint names multiple respondents, the twenty-one day period shall commence from the later of (1) the date on which the last timely answer was filed, or (2) if one or more respondents have failed to answer, from the expiration of the latest period provided for filing an answer provided by section 38a-8-61 of the Regulations of Connecticut State Agencies.

(d) At or following the conclusion of any conference held pursuant to this section, the presiding officer or hearing officer shall enter a written ruling or order that recites any agreements reached and any procedural determinations made by the hearing officer.

(Effective September 25, 1992; Amended February 1, 2001; Amended August 5, 2009)

Sec. 38a-8-39. Rules of evidence

The following rules of evidences shall be applied at hearings:

(1) **General.** Any oral or documentary evidence may be received but the presiding officer shall, as a matter of policy, exclude irrelevant, immaterial or unduly repetitious evidence. The allegations and facts as stated in the Notice of Hearing or complaint issued in Insurance Department enforcement proceedings shall determine the relevance of evidence at the hearing. The Commissioner or presiding officer shall give effect to the rules of privilege recognized by law in Connecticut. Subject to these requirements and subject to the right of any party to cross-examine, any testimony may be received in written form.

(2) **Documentary evidence.** Documentary evidence may be received at the discretion of

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the Commissioner or presiding officer in the form of copies or excerpts, if the original is not readily available. Upon request by any party an opportunity shall be granted to compare the copy with the original which shall be subject to production by the person offering such copies, within the provisions of section 52-180 of the Connecticut General Statutes.

(3) **Cross examination.** Such cross examination may be conducted as the presiding officer shall find to be required for a full and true disclosure of the facts.

(4) Facts noticed, department records. The Commissioner or presiding officer, on his or her own initiative or at the request of any party, may take notice of judicially cognizable facts, including prior decisions and orders of the Commissioner or the department, and generally recognized technical or scientific facts within the Department's specialized knowledge.

(5) **Facts, noticed, procedure.** Parties shall be afforded an opportunity to contest the material so noticed by being notified before or during the hearing, or by an appropriate reference in preliminary reports or otherwise of the material noticed. The Commissioner shall nevertheless employ the department's experience, technical competence, and specialized knowledge in evaluating the evidence presented at the hearing for the purpose of making findings of the facts and arriving at a decision in any contested case.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-40. Filing of added exhibits and testimony

Upon order of the presiding officer before, during or after the hearing of a case, any party or intervenor shall prepare and file added exhibits and written testimony. Any party or intervenor filing added exhibits or testimony shall deliver copies of such to all other parties and intervenors, and shall file a certification regarding such delivery.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-41. Uncontested disposition of case

Unless precluded by law, any contested case may be resolved by stipulation, agreed settlement, consent order or default upon order of the Commissioner. Upon such disposition a copy of the order of the Commissioner shall be served on each party in accordance with section 38a-8-18(d) of the Regulations of Connecticut State Agencies.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-42. The record in contested cases

The record in a contested case shall include:

- (1) All motions, applications, petitions, complaints, responsive pleadings, bills of particulars, notices of hearing, and intermediate rulings;
- (2) The evidence received and considered by the presiding officer;
- (3) Questions and offers of proof, objections, and the presiding officer's rulings thereon during the hearing;

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(4) The decision, opinion or report by the presiding officer or the Commissioner.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-43. Proposal for decision

(a) The Commissioner shall proceed in the following manner in contested cases where the Commissioner has not heard the case or read the record. The decision of the presiding officer shall not be adopted by the Commissioner until the presiding officer's proposal for decision is served upon all of the parties and until an opportunity has been afforded to each party and intervenor affected by the proposed decision to file exceptions, to present briefs, and to make oral argument before the Commissioner.

(b) The proposal for decision served upon the parties shall state the hearing officer's reasons therefor and each issue of law or fact necessary for the proposed decision.

(c) Compliance with this section may be waived by a written stipulation of the parties.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-44. Final decision

All final decisions and orders of the Commissioner concluding a contested case shall be in writing or orally stated and shall be made a part of the record of such case. The Commissioner shall serve a copy of the final decision on each party and intervenor in the manner required by the rules of practice and by chapter 54 of the Connecticut General Statutes. With the consent in writing of the respondent and notice to all others concerned, an order may be entered without holding of any hearing or the making of any findings of fact or conclusion of law.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-45—38a-8-46. Reserved

Part 2

Special Provisions:

Hearings on Applications and Petitions

Sec. 38a-8-47. General provisions

(a) The Commissioner shall hold a hearing on any application or petition where required by law and may in his or her discretion hold a hearing on any application or petition presented to the Commissioner where he or she deems a hearing to be necessary for a complete consideration of the matter.

(b) In addition to the general provisions of this article governing hearings, the following special provisions, sections 38a-8-48 to 38a-8-53, inclusive, of the Regulations of Connecticut State Agencies shall apply to all hearings on applications and petitions filed

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with the Commissioner.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-48. Party and intervenor status

(a) In issuing the notice of hearing, the Commissioner shall designate as parties those persons known to the Commissioner whose legal rights, duties or privileges are being determined. All other persons proposing to be named or admitted as parties or intervenors shall apply for such designation in the manner hereinafter described. No other person shall be or have standing before the Commissioner as a party or intervenor.

(b) The Commissioner or presiding officer shall grant a person status as a party in a contested case if the Commissioner or presiding officer finds that:

(1) such person has submitted a written petition to the the Insurance Department and mailed copies to all parties, at least five days before the date of hearing; and

(2) the petition states facts that demonstrate that the petitioner's legal rights, duties or privileges shall be specifically affected by the Commissioner's decision in the contested case.

(C) the Commissioner or presiding officer may grant a person status as an intervenor in a contested case if the Commissioner or presiding officer finds that:

(1) such person has submitted a written petition to the Insurance Department and mailed copies to all parties, at least five days before the date of hearing; and

(2) the petition states facts that demonstrate that the petitioner's participation is in the interests of justice and will not impair the orderly conduct of the proceedings.

(d) The five-day requirement in subsections (a) and (b) of this section may be waived at any time by the Commissioner or presiding officer on a showing of good cause.

(e) If a petition is granted pursuant to subsection (c) of this section, the Commissioner or presiding officer may limit the intervenor's participation to designated issues in which the intervenor has a particular interest as demonstrated by the petition and shall define the intervenor's rights to inspect and copy records, physical evidence, papers and documents, to introduce evidence, and to argue and cross-examine on those issues. The Commissioner or presiding officer may further restrict the participation of an intervenor in the proceedings, including the rights to inspect and copy records, to introduce evidence and to cross-examine, so as to promote the orderly conduct of the proceedings.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-49. Petition to be designated a party or intervenor

The petition to be designated a party or intervenor as required by section 38a-8-48 of the Regulations of Connecticut State Agencies shall include the following:

(1) the petitioner's name and address;

(2) a legal description of the petitioner;

(3) the identity of the individual on whom papers are to be served during the course of the contested case;

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(4) for petitions to be designated a party, a description of the facts that demonstrate that the petitioner's legal rights, duties or privileges shall be specifically affected by the Department's decision in the contested case; and

(5) for petitions to be designated an intervenor, a description of the facts that demonstrate that the petitioner's participation is in the interests of justice and will not impair the orderly conduct of the proceedings.

(Effective September 25, 1992; Amended February 1, 2001; Amended February 1, 2011)

Sec. 38a-8-50. Repealed

Repealed February 1, 2001.

Sec. 38a-8-51. Procedure concerning added parties

(a) **Notice of designation.** In the event that the Commissioner grants any petitioner status as a party or intervenor after service of the initial notice of hearing in a contested case, the Commissioner or presiding officer shall give notice thereof to all parties theretofore designated or admitted. The form of the notice shall be a copy of the order of the department naming or admitting such added party and a copy of any petition filed by such added party requesting designation as a party. Service of such notice shall be in the manner provided in these rules.

(b) **Public comment.** In any hearing on a petition, the Commissioner or the presiding officer may allow interested persons who do not wish to be made parties to present comments either orally or in writing. Such comments shall be made available to all parties and petitioners, and shall be given the same weight as legal argument. The presiding officer may require any such statement to be given under oath or affirmation.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-52. Hearing procedure

(a) **Order of presentation.** In hearings on petitions, the party that shall open and close the presentation of any part of the matter shall be the petitioner. In a case where the direct testimony has already been submitted in written form as provided by the rules of practice, the hearing shall open with the direct testimony being read for the benefit of those present or, at the discretion of the Commissioner or presiding officer, the hearing shall open with the cross-examination of persons who have given written testimony. In the event any person has given written testimony and is not available for such cross-examination at the time and place directed by the Commissioner or presiding officer, all of such written testimony may be discarded and removed from the record at the discretion of the Commissioner or presiding officer.

(b) **Limiting number of witnesses.** To avoid unnecessary cumulative evidence, the Commissioner or the presiding officer may limit the number of witnesses or the time for the testimony upon a particular issue in the course of any hearing pertaining to a petition for party or intervenor status.

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(c) **Limitation of direct case.** The direct case of any petitioner shall consist substantially of the written statement of the petition, and the exhibits and other materials annexed thereto unless the Commissioner or presiding officer shall rule otherwise for good cause shown. All prepared written testimony filed with the petition shall be received in evidence with the same force and effect as though it were stated orally by the witnesses, provided that each such witness shall be present at the hearing at which such prepared written testimony is offered, shall adopt such written testimony under oath, and shall be made available for cross-examination as directed by the Commissioner or presiding officer. Prior to its admission, such written testimony shall be subject to objections by any party. The Department, any party or intervenor may waive the attendance of such witness at the hearing. Where the attendance at the hearing of all witnesses is waived by all parties, intervenors and the Department, the matters at issue in the hearing may be decided solely on the basis of the prepared written testimony.

(d) The Commissioner or presiding officer may by order, require any party or other participant that proposes to offer substantive, technical or expert testimony, to prefile such testimony in written form on such date before or during the public hearing as the Commissioner or presiding officer shall direct. Such prefiled written testimony shall be received in evidence with the same force and effect as though it were stated orally by the witnesses who have given the evidence, provided that each witness shall be present at the hearing at which the prefiled written testimony is offered, shall adopt the written testimony under oath, and shall be made available for cross-examination as directed by the Commissioner or presiding officer. Prior to its admission, such written testimony shall be subject to objections by any party.

(e) The Commissioner or presiding officer may allow oral testimony or arguments to be presented by telephone or other electronic means, provided the testimony or arguments are amplified so that the public attending such hearing may hear such testimony or arguments.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-53. Reserved

Part 3

Special Provisions:

Hearings in Enforcement Proceedings

Sec. 38a-8-54. General

In addition to the general provisions of this article governing hearings, the following special provisions shall apply to all proceedings instituted by the Commissioner for the revocation or suspension of any license, in any proceeding where a fine may be imposed, and in any proceeding under sections 38a-815 to 38a-819, inclusive, of the Connecticut

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General Statutes alleging unfair practices.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-55. Hearings — licenses, fines

Except as provided in section 38a-8-56 of the Regulations of Connecticut State Agencies or any provision of the Connecticut General Statutes, no license may be revoked or suspended nor any fine imposed for violation of any provision within title 38a of the Connecticut General Statutes or the Regulations of Connecticut State Agencies without prior notice and an opportunity to be heard.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-56. Suspension pending proceedings

If the Commissioner finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in his or her order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined by the Commissioner.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-57. Hearings — unfair practices

Proceedings instituted by the Commissioner alleging unfair practices under sections 38a-815 to 38a-819, inclusive, of the Connecticut General Statutes and Regulations promulgated thereunder shall be conducted in accordance with the provisions of said sections as supplemented by the rules of practice.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-58. Intervention — unfair practices proceeding

The Commissioner shall permit any person to intervene in any proceeding under sections 38a-817 and 38a-818 of the Connecticut General Statutes in accordance with section 38a-8-49 of the Regulations of Connecticut State Agencies.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-59. Notice — time

Unless a greater or lesser time is required by statute or regulation with regard to any proceeding subject to this section, notice shall be given to the respondent at least thirty (30) days prior to a hearing.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-60. Complaint

(a) **Complaint issuance.** All enforcement proceedings instituted by the Commissioner for the revocation or suspension of any license or imposition of a fine, or both, shall be initiated by serving on each respondent a complaint which shall specify in reasonable detail

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the conduct alleged to constitute a violation of any regulation or statutory provision which the commissioner has jurisdiction to enforce and contain the information required by section 38a-8-32 of the Regulations of Connecticut State Agencies and section 4-177 of the Connecticut General Statutes. In addition, the complaint shall include a notice that the respondent's failure to file an answer in accordance with section 38a-8-61 of the Regulations of Connecticut State Agencies shall allow the commissioner or the presiding officer to treat as admitted the allegations in the complaint and issue a decision by default against the respondent, pursuant to section 38a-8-62 of the Regulations of Connecticut State Agencies.

(b) **Amendments to complaint.** The Insurance Department may file and serve, not later than the day on which a hearing is scheduled, an amended complaint that includes new matters of fact or law once as a matter of course before the respondent answers the complaint. After the filing of a respondent's answer to the complaint, upon motion by the department, the presiding officer may permit the Insurance Department to amend the complaint to include new matters of fact or law, after considering whether the Insurance Department has shown good cause for the amendment and whether any respondent will suffer any unfair prejudice if the amendment is allowed.

(Effective September 25, 1992; Amended February 1, 2001; Amended August 5, 2009)

Sec. 38a-8-61. Answer

(a) **Form, content, affirmative defenses.** The respondent in any enforcement proceeding shall file an answer to the complaint with the Commissioner no later than twenty (20) days after service of the complaint. An answer shall specifically admit, deny, or state that the respondent does not have and is unable to obtain sufficient information to admit or deny each allegation in the complaint. When a respondent intends to deny only part of an allegation, the respondent shall specify so much of it as is admitted and deny only the remainder. A statement of a lack of information shall be deemed a denial. Any allegation not denied in whole or in part shall be deemed admitted. Any affirmative defense shall be asserted specifically in the answer.

(b) **Amendments to answer.** Upon motion by a respondent, the presiding officer may, after considering good cause shown by the respondent and any unfair prejudice which may result to any other party, permit an answer to be amended up to and including the date scheduled for the hearing.

(c) **Extension of time to answer amended complaint.** If a complaint is amended pursuant to section 38a-8-60(b) of the Regulations of Connecticut State Agencies, the time for filing an answer or amended answer shall be the greater of the original time period within which the respondent is required to respond, or fourteen days after service of the amended complaint. If any respondent has already filed an answer, such respondent shall have fourteen days after service of the amended complaint to file an amended answer, unless otherwise ordered by the presiding officer.

(d) **Failure to answer, default.** A respondent's failure to file an answer with the insurance department within the time required by this section shall allow the commissioner

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or the presiding officer, in the exercise of his or her discretion, pursuant to section 38a-8-62 of the Regulations of Connecticut State Agencies to:

- (1) treat as admitted by the respondent the allegations in the complaint; and
- (2) issue a default decision against the respondent as provided by section 38a-8-62 of the Regulations of Connecticut State Agencies.

(Effective September 25, 1992; Amended February 1, 2001; Amended August 5, 2009)

Sec. 38a-8-62. Default decisions

The Commissioner or presiding officer may issue a default decision against a respondent that fails to answer the complaint within the time afforded under section 38a-8-61 of the Regulations of Connecticut State Agencies, or a party that fails to appear at a pre-hearing conference held pursuant to section 38a-8-38 of the Regulations of Connecticut State Agencies of which the party has due notice, or a party that fails to appear at any duly noticed hearing. If the defaulting party is the respondent, the Commissioner or presiding officer may deem the allegations against the respondent admitted. If the defaulting party is the insurance department, the Commissioner or presiding officer may issue a default decision ordering that the complaint be dismissed.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-63. Reopened hearing

A respondent may, for good cause shown, file a motion to set aside a decision rendered by default no later than sixty (60) days of the entry thereof. If a default was entered for failure of the respondent to file an answer, the respondent shall submit said answer with the motion to reopen. Upon a showing of good cause, the Commissioner may grant said motion and shall schedule the hearing at the earliest date convenient to the Commissioner.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-64. Conduct of enforcement hearing

(a) Unless modified by the Commissioner or the presiding officer, the order of proof in enforcement proceedings shall be as follows:

- (1) evidence of the violations alleged;
- (2) cross-examination of the department's witnesses;
- (3) evidence by respondent and his witnesses;
- (4) cross-examination of respondent and his witnesses;
- (5) such rebuttal or other evidence on behalf of the department or other party in interest as may be allowed by the Commissioner.

(b) At the discretion of the Commissioner or presiding officer, the parties may be ordered to file proposed findings of facts and conclusions of law, or post-hearing briefs, or both. The Commissioner or presiding officer may order that such proposed findings and conclusions be filed together with, or as part of, post-hearing briefs.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-65. Jurisdictional objections

After proceedings have commenced in a contested case, objections to the jurisdiction of the Insurance Department may be made to the Commissioner at any time prior to the final decision.

(Effective September 25, 1992; Amended February 1, 2001; Amended August 5, 2009)

Sec. 38a-8-66. Reserved

ARTICLE V

APPEALS TO COMMISSIONER

Sec. 38a-8-67. Appeals under Sections 38a-329 and 38a-328-14

(a) **General.** This section and section 38a-8-68 of the Regulations of Connecticut State Agencies set forth the procedure to be followed in the disposition of appeals to the Commissioner pursuant to section 38a-329 of the Connecticut General Statutes and section 38a-328-14 of the Regulations of Connecticut State Agencies.

(b) **Time limit for appeal.** Appeals to the Commissioner under this section shall be made no later than thirty (30) days after the date notice was mailed of the final action, decision or ruling of the Connecticut Automobile Insurance Assigned Risk Plan, the Connecticut Insurance Placement Facility (Fair Plan), the Connecticut Worker's Compensation Insurance Plan or other residual market mechanism authorized under section 38a-329 of the Connecticut General Statutes to provide insurance coverage for applicants who are in good faith entitled to but are unable to procure the insurance through ordinary methods. Appeals to the Commissioner under this section that are filed beyond the appeal period as established by this section, will be accepted only in the discretion of the Commissioner.

(c) **Form of appeal.** All appeals to the Commissioner shall be in writing and conform to the general provisions of the Regulations of Connecticut State Agencies where applicable and, in addition, shall set forth clearly and concisely the basis for disputing the action, decision or ruling, together with all pertinent documents or exhibits attached thereto.

(d) **Scope of appeal.** Appeals made to the Commissioner under this section shall be limited to a review for compliance with applicable statutes, regulations, and the forms, procedure, rates, rating plans and rules of the Connecticut Automobile Insurance Assigned Risk Plan, the Connecticut Insurance Placement Facility (Fair Plan), the Connecticut Worker's Compensation Insurance Plan or other residual market mechanism established pursuant to Section 38a-329 of the Connecticut General Statutes.

(e) **Decision, hearing.** No later than thirty (30) days after receipt of the written appeal, the Commissioner shall review the matter in accordance with subsection (d) of this section, and affirm or reverse the decision or ruling from which appeal to the Commissioner was taken. When the Commissioner deems it necessary to decide the matter, the Commissioner in his or her discretion may solicit additional information from the appellant or the manager or committee designated to operate the particular plan or residual market mechanism, and

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in his or her discretion hold a hearing to hear and receive testimony.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-68. Reserved

ARTICLE VI

**INFORMAL COMPLAINTS ALLEGING VIOLATIONS OF THE INSURANCE
LAWS OR REGULATIONS**

Sec. 38a-8-69. Form

The Commissioner will accept informal complaints alleging violations of title 38a of the Connecticut General Statutes or the regulations promulgated thereunder from any person. Although no form of informal complaint is required, it is requested that such complaints clearly state the name, address, and telephone number of the complainant; the name, address, and telephone number of the person complained of; a brief description of the facts relied upon; and, if the complaint concerns a rate, policy form or document of any kind, that it be identified or a copy attached to the complaint. It is also requested that any person filing a complaint indicate whether they will be available to testify with regard to such complaint if formal proceedings thereon are instituted by the Commissioner.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-70. Disposition of informal complaints

Where the Commissioner, in his or her discretion, determines that an informal complaint alleges a violation of title 38a of the Connecticut General Statutes or regulations promulgated thereunder, and where the Commissioner determines that the complaint appears to be susceptible to informal adjustment, a copy or a statement of the substance thereof will be transmitted to each person complained of in an endeavor to have it satisfied by correspondence and thus obviate the need for formal proceedings.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-71. Reserved

ARTICLE VII

REGULATIONS

Sec. 38a-8-72. Notice of intent to adopt regulations

Prior to the adoption of any regulation, the Commissioner shall give such notice as is required by section 4-168 of the Connecticut General Statutes or other applicable statutes.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-73. Request for advance notice of regulation adoption proceedings

(a) **Filing and form.** Any person or group may file a request with the Commissioner for advance notice of regulation adoption proceedings. The request shall be clearly titled “Request for Advance Notice of Regulation Adoption Proceedings” and shall state in order:

- (1) the name of the person or group making the request,
- (2) the address of the person or group to which responses should be mailed; and
- (3) the date of the request.

(b) **Time and form of notice.** The Commissioner shall give at least thirty (30) days’ notice of the adoption of a regulation. The notice shall include:

- (1) either a statement of the terms or of the substance of the proposed regulation or description sufficiently detailed so as to apprise persons likely to be affected of the issues and subjects involved in such proposed regulation;
- (2) a statement of the purposes for which the regulation is proposed;
- (3) a reference to the statutory authority for such proposed regulation; and
- (4) the time when, the place where, and the manner in which interested persons may present their views thereon, and such additional information as may be required by law.

(c) **Effective period.** The request for advance notice of regulation adoption proceeding shall be in effect only for the calendar year in which it was filed and all requests shall expire on December 31 each year.

(d) **Fees.** The fee for providing advance notice of regulation adoption proceedings shall be \$20.00 per year and each request shall be accompanied by a check or money order payable to the Treasurer, State of Connecticut.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-74. Submission of data, views, and argument

All interested persons may submit data, views, and arguments in writing to the Commissioner not more than thirty (30) days after notice of intent to adopt the regulation has been published. Oral presentations may be allowed by the Commissioner in his or her discretion, but an opportunity to present oral argument shall be granted if requested by fifteen (15) persons, by a governmental subdivision or agency, or by an association having not less than fifteen (15) members, provided notice of such request is made to the Commissioner no later than fourteen (14) days after the date of publication of the notice of intent to adopt regulations in the Connecticut Law Journal. The Commissioner, in his or her discretion, may require that the oral argument be recorded or transcribed at the expense of the persons making oral argument or that a written summary be provided which shall be open to inspection by the public.

(Effective September 25, 1992; Amended February 1, 2001)

Sec. 38a-8-75. Availability of regulations

All the regulations and currently pending proposed regulations of the Commissioner shall be available for inspection during normal business hours at the Commissioner’s principal

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office. Copies of all such regulations shall be available to any person on request. The Commissioner may charge a reasonable fee for each copy in accordance with the Freedom of Information Act, chapter 14 of the Connecticut General Statutes.

(Effective September 25, 1992; Amended February 1, 2001)

Personal Data

Sec. 38a-8-76. Personal data

(a) **Definitions**

(1) The following definitions shall apply to these regulations:

(A) “Category of personal Data” means the classification of personal information set forth in the Personal Data Act, Conn. Gen. Stat. 4-190 (9).

(B) “Other Data” means any information which because of name, identification number, mark or description can be readily associated with a particular person.

(C) “Licensee” means individuals licensed by the Insurance Commissioner as producers, public adjusters, temporary agents, casualty claim adjusters, surplus lines brokers, fraternal agents, motor vehicle physical damage appraisers, and certified insurance consultants.

(2) Terms defined in Conn. Gen. Stat. Sec. 4-190 shall apply to these regulations.

(b) **General Nature and Purpose of Personal Data**

(1) The Insurance Department maintains the following personal data system:

(A) Personnel Records.

(i) All personnel records are maintained at the Insurance Department, Room 429, State Office Building, Hartford, Connecticut.

(ii) Personnel records are maintained in both automated and manual form.

(iii) Personnel records are maintained for the purpose of retaining payroll, health discipline and related personnel information concerning Insurance Department employees.

(iv) Personnel records are the responsibility of the Business Manager of the Insurance Department, Room 429, State Office Building, Hartford, Connecticut. All requests for disclosure or amendment of these records should be directed to the Business Manager.

(v) Routine sources for information retained in personnel records include the employee, previous employers of the employee, references provided by the applicants, the employee’s supervisor, the Comptroller’s Office, Department of Administrative Services, Division of Personnel and Labor Relations, and State insurance carriers.

(vi) Personal data in personnel records are collected, maintained and used under authority of the State Personnel Act, Conn. Gen. Stat. Sec. 5-193 et seq.

(B) License Records.

(i) License records for licensees are maintained in the Licensing and Investigations Division of the Insurance Department, Room 449, State Office Building, Hartford, Connecticut.

(ii) License records are maintained in both automated and manual form.

(iii) License records are maintained for the purpose of determining the qualifications of

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applicants and the continued suitability of licensees.

(iv) Licensee records are maintained with the Director of the Licensing and Investigations Division of the Insurance Department, Room 449, State Office Building, Hartford, Connecticut. All requests for disclosure or amendment of these records should be directed to the Director.

(v) Routine sources of information retained in license records include license application, financial, employment, criminal history and other personal background data and information secured and maintained by the Insurance Department for individuals licensed by the Department.

(c) **Categories of Personal Data.**

(1) Personnel Records

(A) The following categories of personal data may be maintained in personnel records:

- (i) Educational records.
- (ii) Medical or emotional condition or history.
- (iii) Employment or business history.
- (iv) Other reference records.

(B) The following categories of other data may be maintained in personnel records:

- (i) Addresses.
- (ii) Marital status.
- (iii) Telephone numbers.

(C) Personnel records are maintained on employees of the Insurance Department and applicants for employment with the Insurance Department.

(2) Licensee Records

(A) The following categories of personal data may be maintained in license records of licensees.

- (i) Educational records.
- (ii) Medical or emotional condition or history.
- (iii) Employment or business history.
- (iv) Criminal records.
- (v) Police investigation records.
- (vi) Investigative records from other jurisdictions.
- (vii) Other reference records.

(B) The following categories of other data may be maintained in license records:

- (i) Application records.
- (ii) Renewal records.
- (iii) Removal records.
- (iv) Records of administrative action.
- (v) Addresses.
- (vi) Marital status.
- (vii) Social security number.
- (viii) Telephone numbers.

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(C) License records are maintained on applicants for and holders of licenses to act as an insurance agent, an insurance broker, a public adjuster, a temporary agent, a casualty claim adjuster, an excess line broker, a fraternal agent, a motor vehicle physical damage appraiser, and a certified insurance consultant.

(d) Maintenance of Personal Data

(1) Personal data will not be maintained unless relevant and necessary to accomplish the lawful purposes of the Insurance Department. Where the Insurance Department finds irrelevant or unnecessary public records in its possession, the Department shall dispose of the records in accordance with its records retention schedule and with the approval of the Public Records Administrator as per Conn. Gen. Stat. Sec. 11-8a, or if the records are not disposable under the records retention schedule, request permission from the Public Records Administrator to dispose of the records under Conn. Gen. Stat. Sec. 11-8a.

(2) The Insurance Department will collect and maintain all records with accurateness and completeness.

(3) Insofar as it is consistent with the needs and mission of the Insurance Department, the Department wherever practical, shall collect personal data directly from the persons to whom a record pertains.

(4) Insurance Department employees involved in the operation of the Agency's personal data systems will be informed of the provisions of the (A) Personal Data Act, (B) the Department's regulations adopted pursuant to Sec. 4-196, (C) the Freedom of Information Act and (D) any other state or federal statute or regulations concerning maintenance or disclosure or personal data kept by the Department.

(5) All Insurance Department employees shall take reasonable precautions to protect personal data under their custody from the danger of fire, theft, flood, natural disaster and other physical threats.

(6) The Insurance Department shall incorporate by reference the provisions of the Personal Data Act and regulations promulgated thereunder in all contracts, agreements or licenses for the operation of a personal data system or for research, evaluation and reporting of personal data for the Department or on its behalf.

(7) An agency requesting personal data from any other state agency shall have an independent obligation to insure that the personal data is properly maintained.

(8) Only Insurance Department employees who have a specific need to review personal data records for lawful purposes of the Department shall be entitled to access to such records under the Personal Data Act.

(9) The Insurance Department will keep a written up-to-date list of individuals entitled to access to each of the agency's personal data systems.

(10) The Insurance Department will insure against unnecessary duplication of personal data records. In the event it is necessary to send personal data records through interdepartmental mail, such records will be sent in envelopes or boxes sealed and marked "confidential."

(11) The Insurance Department will insure that all records in manual personal data

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systems are kept under lock and key and, to the greatest extent practical, are kept in controlled access areas.

(12) With respect to the automated personal data system:

(A) The Insurance Department shall, to the greatest extent practical, locate automated equipment and records in a limited access area.

(B) To the greatest extent practical, the Insurance Department shall require visitors to such area to sign a visitor's log and permit access to said area on a bonafide need-to-enter basis only.

(C) The Insurance Department, to the greatest extent practical, will insure that the regular access to automated equipment is limited to operations personnel.

(D) The Insurance Department shall utilize appropriate access control mechanisms to prevent disclosure of personal data to unauthorized individuals.

(e) Disclosure of Personal Data

(1) Within four business days of receipt of a written request therefor, the Insurance Department shall mail or deliver to the requesting individual a written response in plain language, informing him/her as to whether or not the Department maintains personal data on that individual, the category and location of the personal data maintained on that individual and procedures available to review the records.

(2) Except where nondisclosure is required or specifically permitted by law, the Insurance Department shall disclose to any person upon written request all personal data concerning that individual which is maintained by the agency. The procedures for disclosure shall be in accordance with Conn. Gen. Stat. Secs. 1-15 through 1-21k. If the personal data is maintained in coded form, the Department shall transcribe the data into a commonly understandable form before disclosure.

(3) The Insurance Department is responsible for verifying the identity of any person requesting access to his/her own personal data.

(4) The Insurance Department is responsible for ensuring that disclosure made pursuant to the Personal Data Act is conducted so as not to disclose any personal data concerning persons other than the person requesting the information.

(5) The Insurance Department may refuse to disclose to a person medical, psychiatric or psychological data on that person if the agency determines that such disclosure would be detrimental to that person.

(6) In any case where the Insurance Department refuses disclosure, it shall advise that person of his/her right to seek judicial relief pursuant to the Personal Data Act.

(7) If the Insurance Department refuses to disclose medical, psychiatric or psychological data to a person based on its determination that disclosure would be detrimental to that person and non-disclosure is not mandated by law, the Department shall, at the written request of such person, permit a qualified medical doctor to review the personal data contained in the person's record to determine if the personal data should be disclosed. If disclosure is recommended by the person's medical doctor, the agency shall disclose the personal data to such person; if nondisclosure is recommended by such person's medical

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doctor, the Department shall not disclose the personal data and shall inform such person of the judicial relief provided under the Personal Data Act.

(8) The Insurance Department shall maintain a complete log of each person, individual, agency or organization who has obtained access or to whom disclosure has been made of personal data under the Personal Data Act, together with the reason for each such disclosure or access. This log must be maintained for not less than five years from the date of such disclosure or access or for the life of the personal data record, whichever is longer.

(f) Contesting the Content of Personal Data Records

(1) Any person who believes that the Insurance Department is maintaining inaccurate, incomplete or irrelevant personal data concerning him/her may file a written request with the Department for correction of said personal data.

(2) With 30 days of receipt of such request, the Insurance Department shall give written notice to that person that it will make the requested correction, or if the correction is not to be made as submitted, the Department shall state the reason for its denial of such request and notify the person of his/her right to add his/her own statement to his/her personal data records.

(3) Following such denial by the Insurance Department, the person requesting such correction shall be permitted to add a statement to his or her personal data records setting forth what that person believes to be an accurate, complete and relevant version of the personal data in question. Such statements shall become a permanent part of the Department's personal data system and shall be disclosed to any individual, agency or organization to which the disputed data is disclosed.

(g) Uses To Be Made of the Personal Data

(1) Personnel Records

(A) Personnel records are routinely used for evaluating the qualifications of employment applicants and the work performance of employees of the Insurance Department. Users include the Business Manager and other state officers and employees with responsibility for evaluating the work performance of employees of the Department, and others where permitted or required by law.

(B) The Insurance Department retains personnel records according to guidelines published by the Public Records Administrator, Connecticut State Library.

(2) License Records

(A) License records of individuals are routinely used for evaluating the suitability of applicants and the continued suitability of licensees. Users include all officers and employees of the Department, police authorities and others where permitted or required by law.

(B) The Insurance Department retains licensee records according to guidelines published by the Public Records Administrator, Connecticut State Library.

(3) When an individual is asked to supply personal data to the Insurance Department the Department shall disclose to that individual, upon request:

(A) The name of the Department and division within the Department requesting the

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personal data;

(B) The legal authority under which the Insurance Department is empowered to collect and maintain the personal data;

(C) The individual's rights pertaining to such records under the Personal Data Act and agency regulations;

(D) The known consequences arising from supplying or refusing to supply the requested personal data;

(E) The proposed use to be made of the requested personal data.

(Effective September 25, 1992; Amended September 9, 2013)

Sec. 38a-8-77—38a-8-100. Reserved

Standards on Hazardous Financial Condition

Sec. 38a-8-101. Authority

Sections 38a-8-101 to 38a-8-104, inclusive, are adopted pursuant to the authority of Section 38a-8 of the General Statutes as necessary to implement Sections 38a-71, 38a-72, 38a-256, 38a-620, and 38a-911 of the General Statutes.

(Effective September 25, 1992)

Sec. 38a-8-102. Purpose

The purpose of this regulation is to set forth the standards which the Insurance Commissioner may use for identifying insurers found to be in such condition as to render the continuance of their business hazardous to the public or to holders of their policies or certificates of insurance.

Sections 38a-8-101 to 38a-8-104, inclusive, shall not be interpreted to limit the powers granted the Commissioner by any laws or parts of laws of this state, nor shall this regulation be interpreted to supercede any laws or parts of laws of this state.

(Effective September 25, 1992)

Sec. 38a-8-103. Standards

The following standards, either singly or a combination of two or more, may be considered by the Commissioner to determine whether the continued operation of any insurer transacting an insurance business in this state might be deemed to be hazardous to its policyholders, creditors or the general public. The Commissioner may consider:

(1) adverse findings reported in financial condition and market conduct examination reports, audit reports, and actuarial opinions, reports or summaries;

(2) the National Association of Insurance Commissioners Insurance Regulatory Information System and its other financial analysis solvency tools and reports;

(3) whether the insurer has made adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the insurer, when considered in light of the assets held

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by the insurer with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such insurer's policies and contracts;

(4) the ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the insurer's remaining surplus after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer;

(5) whether the insurer's operating loss in the last twelve month period or any shorter period of time, including but not limited to net capital gain or loss, change in non-admitted assets, and cash dividends paid to shareholders, is greater than fifty percent (50%) of the insurer's remaining surplus as regards policyholders in excess of the minimum required;

(6) whether the insurer's operating loss in the last twelve-month period or any shorter period of time, excluding net capital gains, is greater than twenty percent (20%) of the insurer's remaining surplus as regards policyholders in excess of the minimum required;

(7) whether a reinsurer, obligor or any entity within the insurer's insurance holding company system, is insolvent, threatened with insolvency, or delinquent in payment of its monetary or other obligations, and which in the opinion of the Commissioner may affect the solvency of the insurer;

(8) contingent liabilities, pledges or guaranties which either individually or collectively involve a total amount which in the opinion of the Commissioner may affect the solvency of the insurer;

(9) whether any person controlling a substantial portion of the net written premiums of an insurer is delinquent in the transmitting to, or payment of, net premiums to the insurer;

(10) the age and collectibility of receivables;

(11) whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of the insurer, fails to possess and demonstrate the competence, fitness and reputation deemed necessary to serve the insurer in such position;

(12) whether management of an insurer has failed to respond to inquiries relative to the condition of the insurer or has furnished false and misleading information concerning an inquiry;

(13) whether the insurer has failed to meet financial and holding company filing requirements in the absence of a reason satisfactory to the Commissioner;

(14) whether management of an insurer either has filed any false or misleading sworn financial statement, or has released false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the insurer;

(15) whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner;

(16) whether the insurer has experienced or will experience in the foreseeable future cash flow or liquidity problems;

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(17) whether management has established reserves that do not comply with minimum standards established by state insurance laws, regulations, statutory accounting standards, sound actuarial principles or standards of practice;

(18) whether management persistently engages in material under-reserving that results in adverse reserve development to meet its claims;

(19) whether transactions among affiliates, subsidiaries or any other person who directly or indirectly controls the operation of the insurer, for which the insurer receives assets or capital gains, or both, do not provide sufficient value, liquidity or diversity to assure the insurer's ability to meet its outstanding obligations as they mature;

(20) any other finding determined by the Commissioner to be hazardous to the insurer's policyholders, creditors or general public.

(Effective September 25, 1992; Amended December 8, 2010)

Sec. 38a-8-104. Commissioner's authority

(a) For the purposes of making a determination of an insurer's financial condition under this regulation, the Commissioner may:

(1) disregard any credit or amount receivable resulting from transactions with a reinsurer that is insolvent, impaired or otherwise subject to a delinquency proceeding;

(2) make appropriate adjustments including disallowance to asset values attributable to investments in or transactions with parents, subsidiaries or affiliates, consistent with the National Association of Insurance Commissioners Accounting Policies and Procedures Manual, state laws or regulations;

(3) refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor;

(4) increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken within the next 12-month period.

(b) If the Commissioner determines that the continued operation of the insurer licensed to transact business in this state may be hazardous to its policyholders, creditors or the general public, then the commissioner may, upon such determination, issue an order requiring the insurer to:

(1) reduce the total amount of present and potential liability for policy benefits by reinsurance;

(2) reduce, suspend or limit the volume of business being accepted or renewed;

(3) reduce general insurance and commission expenses by specified methods;

(4) increase the insurer's capital and surplus;

(5) suspend or limit the declaration and payment of dividend by an insurer to its stockholders or to its policyholders;

(6) file reports in a form acceptable to the Commissioner concerning the market value of an insurer's assets;

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(7) limit or withdraw from certain investments or discontinue certain investment practices to the extent the Commissioner deems necessary;

(8) document the adequacy of premium rates in relation to the risks insured;

(9) file, in addition to regular annual statements, interim financial reports on the form adopted by the National Association of Insurance Commissioners or in such format as promulgated by the Commissioner;

(10) correct corporate governance practice deficiencies, and adopt and utilize governance practices acceptable to the Commissioner;

(11) provide a business plan to the Commissioner in order to continue to transact business in the state;

(12) adjust rates for any non-life insurance product written by the insurer that the Commissioner considers necessary to improve the financial condition of the insurer.

If the insurer is a foreign insurer the Commissioner's order may be limited to the extent provided by statute.

(c) An insurer subject to an order under Subsection (b) may request a hearing to review that order. The notice of hearing shall be served upon the insurer pursuant to the Rules of Practice of the Insurance Department. The notice of hearing shall state the time and place of hearing, and the conduct, condition or ground upon which the Commissioner based the order. Unless mutually agreed between the Commissioner and the insurer, the hearing shall occur not less than ten (10) days nor more than thirty (30) days after notice is served. The Commissioner shall hold all hearings under this subsection privately, unless the insurer requests a public hearing, in which case the hearing shall be public.

(Effective September 25, 1992; Amended December 8, 2010)

Privacy of Consumer Financial Information

Sec. 38a-8-105. Scope

Sections 38a-8-105 to 38a-8-123 of the Regulations of Connecticut State Agencies govern the treatment of nonpublic personal financial information about individuals by all licensees of the Connecticut Insurance Department and are applicable to nonpublic personal financial information about individuals who obtain or are beneficiaries of products or services primarily for personal, family, or household purposes from licensees. Sections 38a-8-105 to 38a-8-123 of the Regulations of Connecticut State Agencies shall not apply to information about companies or about individuals who obtain products or services for business, commercial, or agricultural purposes, but are applicable to nonpublic personal financial information about individuals who obtain products or services for personal, family, or household purposes from licensees.

(Adopted effective June 7, 2002)

Sec. 38a-8-106. Definitions

As used in sections 38a-8-105 to 38a-8-123, inclusive, of the Regulations of Connecticut

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State Agencies:

(1) “Affiliate” means any company that controls, is controlled by or is under common control with another company;

(2) “Affinity program” is a relationship between a financial institution and an unaffiliated third party in which the unaffiliated third party facilitates the financial institution’s efforts to market the financial institution’s products or services to the unaffiliated third party’s customers or members or endorses such financial institution’s products or services;

(3) “Clear and conspicuous” means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice;

(4) “Collect” means to obtain information that the licensee organizes or can retrieve by the name of an individual or by identifying number, symbol, or other identifying particular assigned to the individual, irrespective of the source of the underlying information;

(5) “Commissioner” means the Insurance Commissioner of the State of Connecticut;

(6) “Company” means any corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship, or similar organization;

(7) “Consumer” means an individual or that individual’s legal representative, who seeks to obtain, obtains, or has obtained an insurance product or service from a licensee, that is to be used primarily for personal, family, or household purposes, and about whom the licensee has nonpublic personal financial information.

(A) “Consumer” includes, but is not limited to:

(i) An individual who provides nonpublic personal financial information to a licensee in connection with obtaining or seeking to obtain financial, investment, or economic advisory services relating to an insurance product or service regardless of whether the licensee establishes an ongoing advisory relationship; or

(ii) An applicant for insurance prior to the inception of insurance coverage.

(B) An individual who is a consumer of another financial institution is not a licensee’s consumer solely because the licensee is acting as agent for, or provides processing for, or other services to, that financial institution

(C) An individual is a licensee’s consumer if the licensee discloses nonpublic personal financial information about the individual to a nonaffiliated third party other than as permitted under section 38a-8-116, 38a-8-117, or 38a-8-118 of the Regulations of Connecticut State Agencies and the individual is either:

(i) a beneficiary of a life insurance policy underwritten by the licensee;

(ii) a claimant under an insurance policy issued by the licensee;

(iii) an insured or an annuitant under an insurance policy or an annuity, respectively, issued by the licensee; or

(iv) a mortgagor of a mortgage covered under a mortgage insurance policy.

(D) If the licensee provides the initial, annual, and revised notices as set forth in sections 38a-8-107, 38a-8-108, and 38a-8-111 of the Regulations of Connecticut State Agencies to the plan sponsor, group insurance or annuity contract holder, or policyholder of a workers’ compensation plan, and further, if that licensee does not disclose to a nonaffiliated third

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party nonpublic personal financial information about such an individual other than as permitted under section 38a-8-116, 38a-8-117, or 38a-8-118 of the Regulations of Connecticut State Agencies, an individual is not the consumer of such licensee solely because he or she is:

(i) a participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer, or fiduciary;

(ii) covered under a group insurance or annuity contract issued by the licensee; or

(iii) a claimant covered by a workers' compensation plan.

(E) An individual is not a consumer solely because he or she is a beneficiary of a trust for which the licensee is a trustee; and

(F) An individual is not a consumer solely because he or she has designated the licensee as trustee for a trust;

(8) "Consumer reporting agency" means "consumer reporting agency" as defined in section 603(f) of the federal Fair Credit Reporting Act (15 USC 1681a(f));

(9) "Control" means:

(A) Ownership, ability, or power to vote twenty five percent (25%) or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

(B) Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of the company; or

(C) The power to exercise (directly or indirectly) a controlling influence over the management or policies of the company, as the commissioner determines;

(10) "Customer" means a consumer who has a customer relationship with a licensee;

(11) "Customer relationship" means a continuing relationship between a consumer and a licensee under which the licensee provides one or more insurance products or services to the consumer that are to be used primarily for personal, family, or household purposes.

(A) A consumer has a continuing relationship with a licensee if, for example:

(i) The consumer is a current policyholder of an insurance product issued by or through the licensee; or

(ii) The consumer obtains financial, investment, or economic advisory services relating to an insurance product or service from the licensee for a fee.

(B) A consumer does not have a continuing relationship with a licensee if, for example:

(i) The consumer applies for insurance but does not purchase the insurance;

(ii) The licensee sells the consumer airline travel insurance in an isolated transaction;

(iii) The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;

(iv) The consumer is a beneficiary or a claimant under a policy and has submitted a claim under that policy choosing a settlement option involving an ongoing relationship with the licensee;

(v) The customer's policy is lapsed, expired, paid up, or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the

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customer about the relationship for a period of twelve (12) consecutive months, other than to provide annual privacy notices, material required by law or regulation, communication at the direction of a state or federal authority, or promotional materials;

(vi) The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity; or

(vii) If the individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful;

(12) "Financial institution" means any institution the business of which is engaging in activities that are financial in nature or incidental to such financial activities as described in section 4(k) of the federal Bank Holding Company Act of 1956 (12 USC 1843(k)). "Financial institution" shall not include:

(A) Any person or entity with respect to any financial activity that is subject to the jurisdiction of the federal Commodity Futures Trading Commission under the federal Commodity Exchange Act (7 USC 1 et seq.);

(B) The Federal Agricultural Mortgage Corporation or any entity charged and operating under the federal Farm Credit Act of 1971 (12 USC 2001 et seq.); or

(C) Institutions chartered by the United States Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights), or similar transactions related to a transaction of a consumer, as long as such institutions do not sell or transfer nonpublic personal financial information to a nonaffiliated third party;

(13) "Financial product or service" means any product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under section 4(k) of the federal Bank Holding Company Act of 1956 (12 USC 1843(k)). Financial product or service includes, but is not limited to, a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service;

(14) "Former customer" means an individual with whom a licensee no longer has a continuing relationship. A licensee no longer has a continuing relationship with an individual if, for example:

(A) The individual no longer is a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;

(B) The individual's policy is lapsed, expired, or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve (12) consecutive months, other than to provide annual privacy notices, material required by law or regulation, or promotional materials;

(C) The individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by

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the licensee to obtain a current valid address for the individual have been unsuccessful; or

(D) In the case of providing real estate settlement services, at the time the customer completes execution of all documents related to the real estate closing, payment for those services has been received, or the licensee has completed all of its responsibilities with respect to the settlement, including filing documents on the public record, whichever is later;

(15) “Health information” means any information or data except age or gender, whether oral or recorded in any form or medium, created by or derived from a health care provider or the consumer that relates to:

(A) The past, present, or future physical, mental, or behavioral health or condition of an individual;

(B) The provision of health care to an individual; or

(C) Payment for the provision of health care to an individual;

(16) “Health Care provider” means a “health care provider” as defined in section 20-7f of the Connecticut General Statutes or a “provider” as defined in section 20-7b of the Connecticut General Statutes;

(17) “Information lawfully made available to the general public” includes, but is not limited to:

(A) Publicly available information in government records including information in government real estate records and security interest filings; or

(B) Publicly available information from a widely distributed media source including information from a telephone book, a television or radio program, a newspaper, or a web site that is available to the general public on an unrestricted basis. A web site is not restricted merely because an Internet service provider or a site operator requires a fee or a password, so long as access is available to the general public;

(18) “Insurance product or service” means any product or service that is offered by a licensee pursuant to Title 38a of the Connecticut General Statutes. “Insurance product or service” includes, but is not limited to a licensee’s evaluation, brokerage, or distribution of information that the licensee collects in connection with a request or an application from a consumer for an insurance product or service;

(19) “Licensee” means any licensed insurers, producers, or other persons licensed, required to be licensed, authorized, required to be authorized, registered, or required to be registered pursuant to Title 38a of the Connecticut General Statutes. “Licensee” includes, but is not limited to an unauthorized insurer that places business through a licensed surplus lines broker in this state, but only in regard to the surplus line placements placed pursuant to section 38a-794 of the Connecticut General Statutes. “Licensee” also includes, but is not limited to an unauthorized insurer that accepts business placed through a licensed surplus lines broker in this state, but only in regard to the surplus lines placements placed pursuant to section 38a-794 of the Connecticut General Statutes;

(20) “Nonaffiliated third party” means any person except a licensee’s affiliate or a person employed jointly by a licensee and any company that is not the licensee’s affiliate (but

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“nonaffiliated third party” includes the other company that jointly employs the person). “Nonaffiliated third party” includes, but is not limited to any company that is an affiliate solely by virtue of the direct or indirect ownership or control of the company by the licensee or its affiliate in conducting merchant banking or investment banking activities of the type described in section 4(k)(4)(H) of the federal Bank Holding Company Act (12 USC 1843(k)(4)(H)) or insurance company investment activities of the type described in section 4(k)(4)(I) of the federal Bank Holding Company Act (12 USC 1843(k)(4)(I));

(21) “Nonpublic personal financial information”

(A) Means personally identifiable financial information; or

(B) Means any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information that is not publicly available, including but not limited to any list of individuals’ names and street addresses derived using any personally identifiable financial information that is not publicly available information, such as account numbers;

(C) Shall not include:

(i) Health information;

(ii) Publicly available information, except as included on a list, description, or other grouping of consumers described in subparagraph (B) of this subdivision; or

(iii) Any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any personally identifiable financial information that is not publicly available; or

(iv) Any list of individuals’ names and addresses that contains only publicly available information, is not derived in whole or in part using personally identifiable financial information that is not publicly available, and is not disclosed in a manner that indicates that any of the individuals on the list is a consumer of a financial institution;

(22) “Personally identifiable financial information”

(A) Means any information a consumer provides to a licensee to obtain an insurance product or service from the licensee;

(B) Means any information about a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer;

(C) Means any information the licensee otherwise obtains about a consumer in connection with providing an insurance product or service to that consumer;

(D) Includes, but is not limited to, information a consumer provides to a licensee on an application to obtain an insurance product or service;

(E) Includes, but is not limited to, account balance information and payment history;

(F) Includes, but is not limited to, the fact that an individual is or has been one of the licensee’s customers or has obtained an insurance product or service from the licensee;

(G) Includes, but is not limited to, any information about the licensee’s consumer if it is disclosed in a manner that indicates that the individual is or has been the licensee’s consumer;

(H) Includes, but is not limited to, any information that a consumer provides to a licensee

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or that the licensee or the licensee's agent otherwise obtains in connection with collecting on a loan or servicing a loan;

(I) Includes, but is not limited to, any information the licensee collects through an Internet cookie (an information-collecting device from a web server);

(J) Includes, but is not limited to, information from a consumer report;

(K) Shall not include health information;

(L) Shall not include a list of names and addresses of customers of an entity that is not a financial institution; and

(M) Shall not include information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names, or addresses;

(23) "Publicly available information" means any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from federal, state, or local government records, widely distributed media, or disclosures made to the general public that are required by federal, state, or local law;

(24) "Reasonable basis"

(A) Means a licensee reasonably believes that the information is lawfully made available to the general public when the licensee has taken steps to determine:

(i) That the information is of a type and nature that is available to the general public; and

(ii) Whether an individual can direct that the information not be made available to the general public and, if so, that the licensee's consumer has not done so;

(B) Includes, but is not limited to when a licensee, for the purpose of determining that mortgage information is lawfully made available to the general public, has determined that the information is of the type included on the public record in the jurisdiction where the mortgage would be recorded;

(C) Includes, but is not limited to when a licensee, for the purpose of determining that an individual's telephone number is lawfully made available to the general public, has determined whether the licensee has located the telephone number in the telephone book or the consumer has informed the licensee that the telephone number is not unlisted;

(25) "Reasonably understandable" means that the notice:

(A) Presents the information in the notice in clear, concise sentences, paragraphs, or sections;

(B) Uses short explanatory sentences or bullet lists whenever possible;

(C) Uses definite, concrete, everyday words and active voice whenever possible;

(D) Avoids multiple negatives;

(E) Avoids legal and highly technical business terminology whenever possible; and

(F) Avoids explanations that are imprecise and readily subject to different interpretations; and

(26) "To call attention to the nature and significance of the information" means the notice:

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- (A) Uses a plain-language heading to call attention to the notice;
- (B) Uses a font and type size that are easily read;
- (C) Provides wide margins and ample line spacing;
- (D) Uses boldface or italics for key words;
- (E) If in a form that combines the licensee's notice with other information, uses distinctive type size, style, and graphic devices, such as shading or sidebars; and
- (F) If on a web page, the notice shall contain text or visual cues to encourage scrolling down the page if necessary to view the entire notice (such as text, graphics, hyperlinks, or sound). The licensee calls attention to the nature and significance of the information on its website if the licensee either:
 - (i) Places the notice on a screen that consumers frequently access, such as a page on which transactions are conducted; or
 - (ii) Places a link on a screen that consumers frequently access, such as a page on which transactions are conducted, that connects directly to the notice and is labeled appropriately to convey the importance, nature, and relevance of the notice.

(Adopted effective June 7, 2002)

Sec. 38a-8-107. Initial privacy notice to consumers required

(a) A licensee shall provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to:

(1) A consumer, before the licensee discloses any nonpublic personal financial information about the consumer to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized by section 38a-8-117 or section 38a-8-118 of the Regulations of Connecticut State Agencies; and to

(2) An individual who becomes the licensee's customer, not later than when the licensee establishes a customer relationship, except as provided in subsection (d) of this section. A licensee establishes a customer relationship when the licensee and the consumer enter into a continuing relationship such as when the consumer:

(A) Becomes a policyholder of a licensee that is an insurer when the insurer delivers an insurance policy or contract to the consumer, or in the case of a licensee that is an insurance producer or insurance broker, obtains insurance through that licensee; or

(B) Agrees to obtain financial, economic, or investment advisory services relating to insurance products or services for a fee from the licensee.

(b) A licensee is not required to provide an initial notice to a consumer under subsection (a)(1) of this section if:

(1) The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party, other than as authorized by section 38a-8-117 or section 38a-8-118 of the Regulations of Connecticut State Agencies, and the licensee does not have a customer relationship with the consumer; or

(2) A notice has been provided by an affiliated licensee, as long as the notice clearly identifies all licensees to whom the notice applies and is accurate with respect to the licensee

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and the other institutions.

(c) When an existing customer obtains a new insurance product or service from a licensee that is to be used primarily for personal, family, or household purposes, the licensee satisfies the initial notice requirements of subsection (a) of this section as follows:

(1) The licensee provides a revised policy notice as set forth in section 38a-8-111 of the Regulations of Connecticut State Agencies that covers the customer's new insurance product or service; or

(2) The initial, revised, or annual notice that the licensee most recently provided to that customer was accurate with respect to the new insurance product or service.

(d) A licensee may provide the initial notice required by subsection (a)(1) of this section within a reasonable time after the licensee establishes a customer relationship if:

(1) Establishing the customer relationship is not at the customer's election, including, but not limited to when a licensee acquires or is assigned a customer's policy from another financial institution or residual market mechanism and the customer does not have a choice about the licensee's acquisition or assignment; or

(2) Providing notice not later than when the licensee establishes a customer relationship would substantially delay the customer's transaction and the customer agrees to receive the notice at a later time including, but not limited to when the licensee and the individual agree over the telephone to enter into a customer relationship involving prompt delivery of the insurance product or service or when the relationship is initiated in person at the licensee's office or through other means by which the customer may view the notice, such as on a website.

(Adopted effective June 7, 2002)

Sec. 38a-8-108. Annual privacy notice to customers required

(a) A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. Annually means at least once in any period of twelve consecutive months during which that customer relationship exists. A licensee may define the twelve-consecutive-month period, but the licensee shall apply it to the customer on a consistent basis. A licensee provides a notice annually if it defines the twelve-consecutive-month period as a calendar year and provides the annual notice to the customer once in each calendar year following the calendar year in which the licensee provided the initial notice.

(b) A licensee is not required to provide an annual notice to a former customer.

(c) When a licensee is required by this section to deliver an annual privacy notice, the licensee shall deliver it according to section 38a-8-112 of the Regulations of Connecticut State Agencies.

(Adopted effective June 7, 2002)

Sec. 38a-8-109. Information to be included in privacy notices

(a) The initial, annual, and revised privacy notices that a licensee provides as set forth

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in section 38a-8-107, section 38a-8-108, and section 38a-8-111 of the Regulations of Connecticut State Agencies shall include each of the following items of information, in addition to any other information the licensee wishes to provide, that apply to the licensee and to the consumers to whom the licensee sends its privacy notice:

(1) The categories of nonpublic personal financial information that the licensee collects;

(2) The categories of nonpublic personal financial information that the licensee discloses;

(3) The categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information as set forth in section 38a-8-117 or section 38a-8-118 of the Regulations of Connecticut State Agencies;

(4) The categories of nonpublic personal financial information about the licensee's former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information about the licensee's former customers, other than those parties to whom the licensee discloses information as set forth in section 38a-8-117 or section 38a-8-118 of the Regulations of Connecticut State Agencies;

(5) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party as set forth in section 38a-8-116 of the Regulations of Connecticut State Agencies (and no other exception in section 38a-8-117 or section 38a-8-118 of the Regulations of Connecticut State Agencies applies to that disclosure), a separate description of the categories of information the licensee discloses and the categories of third parties with whom the licensee has contracted;

(6) An explanation of the consumer's right as set forth in section 38a-8-113 of the Regulations of Connecticut State Agencies to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise that right at that time;

(7) Any disclosures that the licensee makes as set forth in section 603(d)(2)(A)(iii) of the federal Fair Credit Reporting Act (15 USC 1681a(d)(2)(A)(iii)) (that is, notices regarding the ability to opt out of disclosures of information among affiliates);

(8) The licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information; and

(9) Any disclosure that the licensee makes as set forth in subsection (b) of this section.

(b) If a licensee discloses nonpublic personal financial information as authorized by section 38a-8-117 or section 38a-8-118 of the Regulations of Connecticut State Agencies, the licensee is not required to list those exceptions in the initial, annual, or revised privacy notices required by section 38a-8-107, section 38a-8-108, or section 38a-8-111 of the Regulations of Connecticut State Agencies. When describing the categories of parties to whom disclosure is made, the licensee is required to state only that it makes disclosures to other affiliated or nonaffiliated third parties, as applicable, as permitted by law.

(c) A licensee satisfies the requirement to categorize the nonpublic personal financial information it collects if the licensee categorizes the information according to the source of

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the information, as applicable, for example:

(1) Information from the consumer;
(2) Information about the consumer's transactions with the licensee or the licensee's affiliates;

(3) Information about the consumer's transactions with nonaffiliated third parties; and

(4) Information from a consumer reporting agency.

(d) A licensee satisfies the requirement to categorize nonpublic personal financial information it discloses if the licensee categorizes the information according to source, as described in subsection (c) of this section, as applicable, and provides a few examples to illustrate the types of information in each category. Examples may include:

(1) Information from the consumer, including application information such as assets and income, and identifying information such as name, address, and social security number;

(2) Specific transaction information, such as information about balances, payment history, and parties to the transaction; and

(3) Information from consumer reports, such as a consumer's creditworthiness and credit history.

(e) A licensee does not adequately categorize the information that it discloses if the licensee uses only general terms such as "transaction information about the consumer."

(f) If a licensee reserves the right to disclose all of the nonpublic personal financial information about consumers that it collects, the licensee may simply state that fact without describing the categories or examples of nonpublic personal financial information that the licensee discloses.

(g) A licensee satisfies the requirement to categorize the affiliates and nonaffiliated third parties to which the licensee discloses nonpublic personal financial information about consumers if the licensee identifies the types of businesses in which they engage. Types of businesses may be described by general terms only if the licensee uses a few illustrative examples of significant lines of business. A licensee also may categorize the affiliates and nonaffiliated third parties to which it discloses nonpublic personal financial information about consumers using more detailed categories.

(h) If a licensee discloses nonpublic personal financial information authorized by section 38a-8-116 of the Regulations of Connecticut State Agencies to a nonaffiliated third party to market products or services that it offers alone or jointly with another financial institution, the licensee satisfies the disclosure requirement of subsection (a)(5) of this section if it:

(1) Lists the categories of nonpublic personal financial information it discloses, using the same categories and examples the licensee used to meet the requirements of subsection (a)(2) of this section, as applicable; and

(2) States whether the third party is:

(A) A service provider that performs marketing services on the licensee's behalf or on behalf of the licensee and another financial institution; or

(B) A financial institution with whom the licensee has a joint marketing agreement.

(i) If a licensee does not disclose, and does not wish to reserve the right to disclose,

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nonpublic personal financial information about customers or former customers to affiliates or nonaffiliated third parties except as authorized under section 38a-8-117 or section 38a-8-118 of the Regulations of Connecticut State Agencies, the licensee may simply state that fact, in addition to the information it shall provide as set forth in section 38a-8-109(a)(1), section 38a-8-109(a)(8), section 38a-8-109(a)(9), and section 38a-8-109(b) of the Regulations of Connecticut State Agencies.

(j) A licensee describes its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if it:

- (1) Describes in general terms who is authorized to have access to the information; and
- (2) States whether the licensee has security practices and procedures in place to ensure the confidentiality of the information in accordance with the licensee's policy. The licensee is not required to describe technical information about the safeguards that it utilizes.

(k) A licensee may satisfy the initial notice requirements in section 38a-8-107(a)(2) and section 38a-8-110(g) of the Regulations of Connecticut State Agencies for a consumer who is not a customer by providing a short-form initial notice at the same time as the licensee delivers an opt out notice as required in section 38a-8-110 of the Regulations of Connecticut State Agencies. The licensee shall deliver its short-form initial notice in accordance with section 38a-8-112 of the Regulations of Connecticut State Agencies. The licensee is not required to deliver its privacy notice with its short-form initial notice. The licensee instead may provide the consumer a reasonable means to obtain its privacy notice. If a consumer who receives the licensee's short-form notice requests the licensee's privacy notice, the licensee shall deliver its privacy notice in accordance with section 38a-8-112 of the Regulations of Connecticut State Agencies. A short-form initial notice shall:

- (1) Be clear and conspicuous;
 - (2) State that the licensee's privacy notice is available upon request; and
 - (3) Explain a reasonable means by which the consumer may obtain that notice.
- (l) The licensee provides a reasonable means by which a consumer may obtain a copy of its privacy notice if the licensee, for example:
- (1) Provides a toll-free telephone number that the consumer may call to request the notice; or
 - (2) For a consumer who conducts business in person at the licensee's office, maintains copies of the notice on hand that the licensee provides to the consumer immediately upon request.

(m) The licensee's notice may include:

- (1) Categories of nonpublic personal financial information that the licensee reserves the right to disclose in the future, but does not currently disclose; and
- (2) Categories of affiliates or nonaffiliated third parties to whom the licensee reserves the right in the future to disclose, but to whom the licensee does not currently disclose, nonpublic personal financial information.

(Adopted effective June 7, 2002)

Sec. 38a-8-110. Form of opt out notice to consumers and opt out methods

(a) If a licensee is required to provide an opt out notice as set forth in section 38a-8-113(a) of the Regulations of Connecticut State Agencies, it shall provide a clear and conspicuous notice to each of its consumers that accurately explains that right to opt out. The opt out notice shall:

(1) State that the licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party;

(2) State that the consumer has the right to opt out of that disclosure; and

(3) Provide a reasonable means by which the consumer may exercise the opt out right.

(b) A licensee provides adequate notice that the consumer can opt out of the disclosure of nonpublic personal financial information to a nonaffiliated third party if the licensee:

(1) Identifies all of the categories of nonpublic personal financial information that it discloses or reserves the right to disclose, and all of the categories of nonaffiliated third parties to which the licensee discloses the information as described in section 38a-8-109(a)(2) and section 38a-8-109(a)(3) of the Regulations of Connecticut State Agencies, and states that the consumer can opt out of the disclosure of that information; and

(2) Identifies the insurance products or services that the consumer obtains from the licensee, either singly or jointly, to which the opt out direction would apply.

(c) A licensee provides a reasonable means to exercise an opt out right if it:

(1) Designates check-off boxes in a prominent position on a reply form(s);

(2) Includes a reply form together with the opt out notice;

(3) Provides an electronic means to opt out, such as a form that can be sent via electronic mail or a process at the licensee's web site, if the consumer agrees to the electronic delivery of information; or

(4) Provides a toll-free telephone number that consumers may call to opt out.

(d) A licensee does not provide a reasonable means to opt out if:

(1) The only means to opt out is for the consumer to write his or her own letter to exercise that opt out right; or

(2) The only means to opt out as described in any notice subsequent to the initial notice is to use a check-off box on a reply form that the licensee provided with the initial notice but did not include with the subsequent notice.

(e) A licensee may require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.

(f) A licensee may provide the opt out notice together with or on the same written or electronic form as the initial notice the licensee provides in accordance with section 38a-8-107 of the Regulations of Connecticut State Agencies.

(g) If a licensee provides the opt out notice later than required for the initial notice in accordance with section 38a-8-107 of the Regulations of Connecticut State Agencies, the licensee shall also include a copy of the initial notice with the opt out notice in writing or, if the consumer agrees, electronically.

(h) If two or more consumers jointly obtain an insurance product or service from a

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licensee, the licensee may provide a single opt out notice. The licensee's opt out notice shall explain how the licensee will treat an opt out direction by a joint consumer. Any of the joint consumers may exercise the right to opt out. The licensee may:

(1) Treat an opt out direction by a joint consumer as applying to all of the associated joint consumers; or

(2) Permit each joint consumer to opt out separately.

(i) If a licensee permits each joint consumer to opt out separately, the licensee shall permit one of the joint consumers to opt out on behalf of all of the joint consumers.

(j) A licensee may not require all joint consumers to opt out before it implements any opt out direction.

(k) A licensee shall comply with a consumer's opt out direction as soon as reasonably practicable after the licensee receives it.

(l) A consumer may exercise the right to opt out at any time.

(m) A consumer's direction to opt out as set forth in this section is effective until the consumer revokes it in writing or, if the consumer agrees, electronically.

(n) When a customer ceases to have a continuing relationship with a licensee, the customer's opt out direction continues to apply to the nonpublic personal financial information that the licensee collected during or related to that relationship. If the former customer establishes a new customer relationship with the licensee, the opt out direction that applied to the former relationship shall not apply to the new relationship.

(o) A surplus lines broker or surplus lines insurer shall be deemed to be in compliance with initial notice in section 38a-8-107 of the Regulations of Connecticut State Agencies, the annual notice in section 38a-8-108 of the Regulations of Connecticut State Agencies, the revised notice in section 38a-8-111 of the Regulations of Connecticut State Agencies, and opt out in section 38a-8-110 and 38a-8-113 of the Regulations of Connecticut State Agencies if:

(1) The surplus lines broker or surplus lines insurer does not disclose nonpublic personal financial information of a consumer or a customer to nonaffiliated third parties for any purpose, including joint servicing or marketing as set forth in section 38a-8-116 of the Regulations of Connecticut State Agencies, except as permitted by section 38a-8-117 or 38a-8-118 of the Regulations of Connecticut State Agencies; and

(2) The surplus lines broker or surplus lines insurer delivers a notice to the consumer at the time a customer relationship is established on which the following is printed in 16-point type:

PRIVACY NOTICE

NEITHER THE U.S. BROKERS THAT HANDLED THIS INSURANCE NOR THE INSURERS THAT HAVE UNDERWRITTEN THIS INSURANCE WILL DISCLOSE NONPUBLIC PERSONAL FINANCIAL INFORMATION CONCERNING THE BUYER TO NONAFFILIATES OF THE BROKERS OR INSURERS EXCEPT AS PERMITTED BY LAW.

(Adopted effective June 7, 2002)

Sec. 38a-8-111. Revised privacy notices

(a) Except as otherwise permitted by section 38a-8-116, 38a-8-117, or 38a-8-118 of the Regulations of Connecticut State Agencies, a licensee shall not, directly or through an affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party other than as described in the initial notice that the licensee provided to that consumer as set forth in section 38a-8-107 of the Regulations of Connecticut State Agencies, unless:

(1) The licensee has provided to the consumer a clear and conspicuous revised notice that accurately describes its policies and practices;

(2) The licensee has provided to the consumer a new opt out notice;

(3) The licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

(4) The consumer does not opt out.

(b) Except as otherwise permitted by section 38a-8-116, 38a-8-117, or 38a-8-118 of the Regulations of Connecticut State Agencies, a licensee shall provide a revised notice before it:

(1) Discloses a new category of nonpublic personal financial information to any nonaffiliated third party;

(2) Discloses nonpublic personal financial information to a new category of nonaffiliated third party; or

(3) Discloses nonpublic personal financial information about a former customer to a nonaffiliated third party, if that former customer has not had the opportunity to exercise an opt out right regarding that disclosure.

(c) A revised notice is not required if the licensee discloses nonpublic personal financial information to a new nonaffiliated third party that the licensee adequately described in its prior notice.

(Adopted effective June 7, 2002)

Sec. 38a-8-112. Delivery

(a) A licensee shall provide all notices that sections 38a-8-105 to 38a-8-123 of the Regulations of Connecticut State Agencies require so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

(b) A licensee may reasonably expect that a consumer will receive actual notice if the licensee:

(1) Hand-delivers a printed copy of the notice to the consumer;

(2) Mails a printed copy of the notice to the last known address of the consumer separately, or in a policy, billing, or other written communication;

(3) For a consumer who conducts transactions electronically, posts the notice on the electronic site and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular insurance product or service;

(4) For an isolated transaction with a consumer, such as the licensee providing an

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insurance quote or selling the consumer travel insurance, posts the notice and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular insurance product or service.

(c) A licensee may not, however, reasonably expect that a consumer will receive actual notice of its privacy policies and practices if it:

(1) Only posts a sign in its office or generally publishes advertisements of its privacy policies and practices; or

(2) Sends the notice via electronic mail to a consumer who does not obtain an insurance product or service from the licensee electronically.

(d) A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if:

(1) The customer uses the licensee's web site to access insurance products and services electronically and agrees to receive notices at the web site and the licensee posts its current privacy notice continuously in a clear and conspicuous manner on the web site; or

(2) The customer has requested that the licensee refrain from sending any information regarding the customer relationship and the licensee's current privacy notice remains available to the customer upon request.

(e) A licensee shall not provide any notice required by sections 38a-8-105 to 38a-8-123 of the Regulations of Connecticut State Agencies solely by orally explaining the notice, either in person or over the telephone.

(f) For customers only, a licensee shall provide the initial notice required by section 38a-8-107(a)(1) of the Regulations of Connecticut State Agencies, the annual notice required by section 38a-8-108(a) of the Regulations of Connecticut State Agencies, and the revised notice required by section 38a-8-111 of the Regulations of Connecticut State Agencies so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically. A licensee provides a privacy notice to the customer so that the customer can retain it or obtain it later if the licensee, for example:

(1) Hand-delivers a printed copy of the notice to the customer;

(2) Mails a printed copy of the notice to the last known address of the customer; or

(3) Makes its current privacy notice available on a web site (or a link to another web site) for the customer who obtains an insurance product or service electronically and agrees to receive the notice at the web site.

(g) A licensee may provide a joint notice from the licensee and one or more of its affiliates or other financial institutions as identified in the notice, as long as the notice is accurate with respect to the licensee and the other financial institutions. A licensee also may provide a notice on behalf of another financial institution.

(h) If two or more consumers jointly obtain an insurance product or service from a licensee, the licensee may satisfy the initial notice requirements in section 38a-8-107 of the Regulations of Connecticut State Agencies, the annual notice requirements in section 38a-8-108 of the Regulations of Connecticut State Agencies, and the revised notice requirements in section 38a-8-111 of the Regulations of Connecticut State Agencies, respectively, by

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providing one notice to those consumers jointly.

(i) A licensee shall provide any notice required by section 38a-8-107, 38a-8-108, 38a-8-110, 38a-8-111, or 38a-8-113 of the Regulations of Connecticut State Agencies, and notices required by section 38a-975 to 38a-998 of the Connecticut General Statutes, through the use of separate notices or a combined notice, so long as the notices are clear and conspicuous.

(Adopted effective June 7, 2002)

Sec. 38a-8-113. Limits on disclosure of nonpublic personal financial information to nonaffiliated third parties

(a) Except as otherwise authorized in sections 38a-8-105 to 38a-8-123 of the Regulations of Connecticut State Agencies, a licensee shall not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless:

(1) The licensee has provided to the consumer an initial notice as set forth in section 38a-8-107 of the Regulations of Connecticut State Agencies;

(2) The licensee has provided to the consumer an opt out notice as required in section 38a-8-110 of the Regulations of Connecticut State Agencies;

(3) The licensee has given the consumer a reasonable opportunity, before it discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

(4) The consumer does not opt out. "Opt out" means a direction by the consumer that the licensee not disclose nonpublic personal financial information about that consumer to a nonaffiliated third party, other than as permitted by section 38a-8-116, 38a-8-117, or 38a-8-118 of the Regulations of Connecticut State Agencies.

(b) A licensee provides a consumer with a reasonable opportunity to opt out if:

(1) The licensee mails the notices required to the consumer and allows the consumer to opt out by mailing a form, calling a toll-free telephone number, or any other reasonable means within thirty days from the date the licensee mailed the notices.

(2) A customer opens an on-line account with a licensee and agrees to receive the notices required electronically, and the licensee allows the customer to opt out by any reasonable means within thirty days after the date that the customer acknowledges receipt of the notices in conjunction with opening the account.

(c) For an isolated transaction such as providing the consumer with an insurance quote, a licensee provides the consumer with a reasonable opportunity to opt out if the licensee provides the notices required at the time of the transaction and requests that the customer decide, as a necessary part of the transaction, whether to opt out before completing the transaction.

(d) A licensee shall comply with this section regardless of whether the licensee and the consumer have established a customer relationship.

(e) Unless a licensee complies with this section, the licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer that

the licensee has collected, regardless of whether the licensee collected it before or after receiving the direction to opt out from the consumer.

(f) A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

(Adopted effective June 7, 2002)

Sec. 38a-8-114. Limits on redisclosure and reuse of nonpublic personal financial information

(a) If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution under an exception in section 38a-8-117 or 38a-8-118 of the Regulations of Connecticut State Agencies, the licensee's disclosure and use of that information is limited as follows:

(1) The licensee may disclose the information to the affiliates of the financial institution from which the licensee received the information;

(2) The licensee may disclose the information to its affiliates, but the licensee's affiliates may, in turn, disclose and use the information only to the extent that the licensee may disclose and use the information; and

(3) The licensee may disclose and use the information pursuant to an exception in section 38a-8-117 or 38a-8-118 of the Regulations of Connecticut State Agencies in the ordinary course of business to carry out the activity covered by the exception under which the licensee received the information.

(b) If a licensee receives information from a nonaffiliated financial institution for claims settlement purposes, the licensee may disclose the information for fraud prevention, or in response to a properly authorized subpoena. The licensee may not disclose that information to a third party for marketing purposes or use that information for its own marketing purposes.

(c) If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution other than under an exception in section 38a-8-117 or section 38a-8-118 of the Regulations of Connecticut State Agencies, the licensee may disclose the information only:

(1) To the affiliates of the financial institution from which the licensee received the information;

(2) To its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information; and

(3) To any other person, if the disclosure would be lawful if made directly to that person by the financial institution from which the licensee received the information.

(d) If a licensee obtains a customer list from a nonaffiliated financial institution outside of the exceptions in section 38a-8-117 or section 38a-8-118 of the Regulations of Connecticut State Agencies:

(1) The licensee may use that list for its own purposes; and

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(2) The licensee may disclose that list to another nonaffiliated third party only if the financial institution from which the licensee purchased the list could have lawfully disclosed the list to that third party. That is, the licensee may disclose the list in accordance with the privacy policy of the financial institution from which the licensee received the list, as limited by the opt out direction of each consumer whose nonpublic personal financial information the licensee intends to disclose, and the licensee may disclose the list in accordance with an exception in section 38a-8-117 or 38a-8-118 of the Regulations of Connecticut State Agencies, such as to the licensee's attorneys or accountants.

(e) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under an exception in section 38a-8-117 or 38a-8-118 of the Regulations of Connecticut State Agencies, the third party may disclose and use that information only as follows:

(1) The third party may disclose the information to the licensee's affiliates;

(2) The third party may disclose the information to its affiliates, but its affiliates may, in turn, disclose and use the information only to the extent that the third party may disclose and use the information; and

(3) The third party may disclose and use the information pursuant to an exception in section 38a-8-117 or 38a-8-118 of the Regulations of Connecticut State Agencies, in the ordinary course of business to carry out the activity covered by the exception under which it received the information.

(f) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party other than under an exception in section 38a-8-117 or 38a-8-118 of the Regulations of Connecticut State Agencies, the third party may disclose the information only:

(1) To the licensee's affiliates;

(2) To the third party's affiliates, but the third party's affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and

(3) To any other person, if the disclosure would be lawful if the licensee made it directly to that person.

(Adopted effective June 7, 2002)

Sec. 38a-8-115. Limits on sharing account number information for marketing purposes

(a) A licensee shall not, directly or through an affiliate, disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct mail marketing, or other marketing through electronic mail to the consumer.

(b) Subsection (a) of this section shall not apply if a licensee discloses a policy number or similar form of access number or access code:

(1) To the licensee's service provider solely in order to perform marketing for the

licensee's own products or services, as long as the service provider is not authorized to directly initiate charges to the account;

(2) To a licensee who is a producer solely in order to perform marketing for the licensee's own products or services.

(3) To a participant in an affinity program where the participants in the program are identified to the customer when the customer enters into the program.

(c) A policy number, or similar form of access number or access code does not include a number or code in an encrypted form, as long as the licensee does not provide the recipient with a means to decode the number or code.

(d) For the purposes of this section, a policy or transaction account is an account other than a deposit account or a credit card account. A policy or transaction account does not include an account to which third parties cannot initiate charges.

(Adopted effective June 7, 2002)

Sec. 38a-8-116. Exception to opt out requirements for disclosure of nonpublic personal financial information for service providers and joint marketing

(a) The opt out requirements in sections 38a-8-110 and 38a-8-113 of the Regulations of Connecticut State Agencies shall not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf, if the licensee:

(1) Provides the initial notice in accordance with section 38a-8-107 of the Regulations of Connecticut State Agencies; and

(2) Enters into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception in section 38a-8-117 or 38a-8-118 of the Regulations of Connecticut State Agencies, in the ordinary course of business to carry out those purposes.

(b) If a licensee discloses nonpublic personal financial information as set forth in this section to a financial institution with which the licensee performs joint marketing, the licensee's contractual agreement with that financial institution meets the requirements of subsection (a)(2) of this section if it prohibits the financial institution from disclosing or using the nonpublic personal financial information except as necessary to carry out the joint marketing or under an exception in section 38a-8-117 or 38a-8-118 of the Regulations of Connecticut State Agencies, in the ordinary course of business to carry out that joint marketing.

(c) The services a nonaffiliated third party performs for a licensee may include marketing of the licensee's own products or services or marketing of financial products or services offered pursuant to joint agreements between the licensee and one or more financial institutions

(d) For purposes of this section, "joint agreement" means a written contract pursuant to which a licensee and one or more financial institutions jointly offer, endorse, or sponsor a

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financial product or service.

(Adopted effective June 7, 2002)

Sec. 38a-8-117. Exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information for processing and servicing transactions

(a) The requirements for the initial notice in section 38a-8-107 of the Regulations of Connecticut State Agencies, the annual notice in section 38a-8-108 of the Regulations of Connecticut State Agencies, the revised notice in section 38a-8-111 of the Regulations of Connecticut State Agencies, and opt out in section 38a-8-110 and 38a-8-113 of the Regulations of Connecticut State Agencies do not apply if the licensee:

(1) Is an employee, agent, or other representative of another licensee (“the principal”) including, but not limited to:

(A) An insurance broker, public adjuster, or other licensee who is employed by another insurance broker, public adjuster, or other licensee;

(B) An independent adjuster adjusting a claim or benefit on behalf of an insurer;

(C) An insurance agent of an insurer;

(D) An insurance broker that has binding authority for an insurer; or

(E) A sublicensee of a licensee, whether or not the sublicensee is licensed in any other capacity; and

(2) The principal otherwise complies with, and provides the notices required by sections 38a-8-105 to 38a-8-123 of the Regulations of Connecticut State Agencies; and

(3) The licensee does not disclose any nonpublic personal financial information to any person other than the principal or the principal’s affiliates in a manner permitted by sections 38a-8-105 to 38a-8-123 of the Regulations of Connecticut State Agencies.

(b) The requirements for the initial notice in section 38a-8-107 of the Regulations of Connecticut State Agencies, the opt out in sections 38a-8-110 and 38a-8-113 of the Regulations of Connecticut State Agencies, and requirements for service providers and joint marketing in section 38a-8-116 of the Regulations of Connecticut State Agencies shall not apply if the licensee discloses nonpublic personal financial information as necessary to effect, administer, or enforce a transaction that a consumer requests or authorizes, or in connection with:

(1) Servicing or processing an insurance product or service that a consumer requests or authorizes;

(2) Maintaining or servicing the consumer’s account with a licensee, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity;

(3) A proposed or actual securitization, secondary market sale (including sales of servicing rights), or similar transaction related to a transaction of the consumer; or

(4) Reinsurance or stop loss or excess loss insurance.

(c) The disclosure of nonpublic personal financial information shall be deemed necessary to effect, administer, or enforce a transaction if disclosure is:

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(1) Required, or is one of the lawful or appropriate methods to enforce the licensee's rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

(2) Required, usual, appropriate, or an acceptable method:

(A) To carry out the transaction or the product, to service business of which the transaction is a part, to record, service, or maintain the consumer's account in the ordinary course of providing the insurance product or service;

(B) To administer or service benefits or claims relating to the transaction or the product, or to service business of which it is a part;

(C) To provide a confirmation, statement, or other record of the transaction, or information on the status or value of the insurance product or service to the consumer, the consumer's agent, broker, or to the policyholder of a worker's compensation plan;

(D) To accrue or recognize incentives or bonuses associated with the transaction that are provided by a licensee or any other party;

(E) To underwrite insurance at the consumer's request or for any of the following purposes as they relate to a consumer's insurance: account administration, reporting, investigating or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), participating in research projects, or as otherwise required or specifically permitted by federal or state law; or

(F) In connection with:

(i) The authorization, settlement, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited or otherwise paid using a debit, credit or other payment card, check or account number, or by other payment means;

(ii) The transfer of receivables, accounts, or interests therein; or

(iii) The audit of debit, credit, or other payment information.

(Adopted effective June 7, 2002)

Sec. 38a-8-118. Other exceptions to initial notice and opt out requirements for disclosure of nonpublic personal financial information

(a) The requirements for initial notice to consumers in section 38a-8-107 of the Regulations of Connecticut State Agencies, the opt out in sections 38a-8-110 and 38a-8-113 of the Regulations of Connecticut State Agencies, and requirements for service providers and joint marketing in section 38a-8-116 of the Regulations of Connecticut State Agencies shall not apply when a licensee discloses nonpublic personal financial information:

(1) With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction;

(2) To protect the confidentiality or security of a licensee's records pertaining to the consumer, service, product, or transaction;

(3) To protect against or prevent actual or potential fraud or unauthorized transactions;

(4) For institutional risk control required by applicable law or for resolving consumer

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disputes or inquiries;

(5) To persons holding a legal or beneficial interest relating to the consumer;

(6) To persons acting in a fiduciary or representative capacity on behalf of the consumer;

(7) To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating a licensee, persons that are assessing the licensee's compliance with industry standards, the licensee's attorneys, accountants, or auditors;

(8) To the extent specifically permitted or required under other provisions of law and in accordance with the federal Right to Financial Privacy Act of 1978 (12 USC 3401 et seq.), to law enforcement agencies (including the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, the Securities and Exchange Commission, the Secretary of the Treasury, with respect to 31 USC Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 USC 21 (Financial Record keeping), a state insurance authority, the Federal Trade Commission, self-regulatory organizations, or for an investigation on a matter related to public safety;

(9) To a consumer reporting agency in accordance with the federal Fair Credit Reporting Act (15 USC 1681 et seq.); or from a consumer report reported by a consumer reporting agency;

(10) In connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal financial information concerns solely consumers of the business or unit;

(11) To comply with federal, state, or local laws, rules, and other applicable legal requirements;

(12) To comply with a properly authorized civil, criminal, or regulatory investigation, subpoena, or summons by federal, state, or local authorities;

(13) To respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance, or other purposes as authorized by law; or

(14) For purposes related to the replacement of a group benefit plan, a group health plan, a group welfare plan, or workers' compensation plan.

(b) A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal financial information as permitted under section 38a-8-110(l) of the Regulations of Connecticut State Agencies.

(c) Licensees in liquidation or receivership are not subject to the notice provisions of section 38a-8-107, section 38a-8-108, section 38a-8-110, and section 38a-8-111 of the Regulations of Connecticut State Agencies.

(Adopted effective June 7, 2002)

Sec. 38a-8-119. Protection of federal fair credit reporting act

Nothing in sections 38a-8-105 to 38a-8-123 of the Regulations of Connecticut State Agencies shall be construed to modify, limit, or supersede the operation of the federal Fair

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Credit Reporting Act (15 USC 1681 et seq.), and no inference shall be drawn on the basis of the provisions of the Regulations of Connecticut State Agencies regarding whether information is transaction or experience information as set forth in section 603 of the federal Fair Credit Reporting Act.

(Adopted effective June 7, 2002)

Sec. 38a-8-120. Nondiscrimination

A licensee does not unfairly discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure of their nonpublic personal financial information pursuant to the provisions of sections 38a-8-105 to 38a-8-123 of the Regulations of Connecticut State Agencies.

(Adopted effective June 7, 2002)

Sec. 38a-8-121. Rules for health information

A licensee shall comply with all applicable state and federal statutes and regulations to protect the confidentiality of health information.

(Adopted effective June 7, 2002)

Sec. 38a-8-122. Effective date and compliance

(a) Until July 1, 2002, a contract that a licensee has entered into with a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf satisfies the provisions of section 38a-8-116(a)(2) of the Regulations of Connecticut State Agencies, even if the contract does not include a requirement that the third party maintain the confidentiality of nonpublic personal financial information, as long as the licensee entered into the agreement on or before the date sections 38a-8-105 to 38a-8-123 of the Regulations of Connecticut State Agencies becomes effective.

(b) The examples and sample clauses included in sections 38a-8-105 to 38a-8-123 of the Regulations of Connecticut State Agencies and Appendix to sections 38a-8-105 to 38a-8-123 of the Regulations of Connecticut State Agencies are not exclusive. Compliance with an example or use of a sample clause, to the extent applicable, constitutes compliance with sections 38a-8-105 to 38a-8-123 of the Regulations of Connecticut State Agencies.

(Adopted effective June 7, 2002)

Sec. 38a-8-123. Severability

If any portion of sections 38a-8-105 to 38a-8-123 of the Regulations of Connecticut State Agencies or its applicability to any person or circumstance is held invalid by a court, the remainder of the regulation or the applicability of the provision to other persons or circumstances shall not be affected.

Sec. APPENDIX A. Sample Clauses

Licenses, including a group of financial holding company affiliates that use a common

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privacy notice, may use the following sample clauses, if the clause is accurate for each institution that uses the notice. (Note that disclosure of certain information, such as assets, income, and information from a consumer reporting agency, may give rise to obligations under the federal Fair Credit Reporting Act, such as a requirement to permit a consumer to opt out of disclosures to affiliates or designation as a consumer reporting agency if disclosures are made to nonaffiliated third parties.)

A-1—Categories of information a licensee collects (all institutions)

A licensee may use this clause, as applicable, to meet the requirement of section 38a-8-109(a)(1) of the Regulations of Connecticut State Agencies to describe the categories of nonpublic personal financial information the licensee collects.

Sample Clause A-1:

We collect nonpublic personal financial information about you from the following sources:

- Information we receive from you on applications or other forms;
- Information about your transactions with us, our affiliates or others; and
- Information we receive from a consumer reporting agency.

A-2—Categories of information a licensee discloses (institutions that disclose outside of the exceptions)

A licensee may use one of these clauses, as applicable, to meet the requirement of section 38a-8-109(a)(2) of the Regulations of Connecticut State Agencies to describe the categories of nonpublic personal financial information the licensee discloses. The licensee may use these clauses if it discloses nonpublic personal financial information other than as permitted by exception.

Sample Clause A-2, Alternative 1:

We may disclose the following kinds of nonpublic personal financial information about you:

- Information we receive from you on applications or other forms, such as [provide illustrative examples, such as “your name, address, social security number, assets, income, and beneficiaries”];
- Information about your transactions with us, our affiliates or others, such as [provide illustrative examples, such as “your policy coverage, premiums, and payment history”]; and
- Information we receive from a consumer reporting agency, such as [provide illustrative examples, such as “your creditworthiness and credit history”].

Sample Clause A-2, Alternative 2:

We may disclose all of the information that we collect, as described [describe location in the notice, such as “above” or “below”].

A-3—Categories of information a licensee discloses and parties to whom the licensee discloses (institutions that do not disclose outside of the exceptions)

A licensee may use this clause, as applicable, to meet the requirements of section 38a-8-109(a)(2), (3), and (4) of the Regulations of Connecticut State Agencies to describe the categories of nonpublic personal financial information about customers and former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses. A licensee may use this clause if the licensee does not disclose nonpublic personal financial information to any party, other than as permitted.

Sample Clause A-3:

We do not disclose any nonpublic personal financial information about our customers or former customers to anyone, except as permitted by law.

A-4—Categories of parties to whom a licensee discloses (institutions that disclose outside of the exceptions)

A licensee may use this clause, as applicable, to meet the requirement of section 38a-8-109(a)(3) to describe the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information. This clause may be used if the licensee discloses nonpublic personal financial information other than as permitted.

Sample Clause A-4:

We may disclose nonpublic personal financial information about you to the following types of third parties:

- Financial service providers, such as [provide illustrative examples, such as “life insurers, automobile insurers, mortgage bankers, securities broker-dealers, and insurance agents”];
- Non-financial companies, such as [provide illustrative examples, such as “retailers, direct marketers, airlines, and publishers”]; and
- Others, such as [provide illustrative examples, such as “non-profit organizations”]. We may also disclose nonpublic personal financial information about you to nonaffiliated third parties as permitted by law.

A-5—Service provider/joint marketing exception

A licensee may use one of these clauses, as applicable, to meet the requirements of section 38a-8-109(a)(5) of the Regulations of Connecticut State Agencies. If a licensee discloses nonpublic personal financial information under this exception, the licensee shall describe the categories of nonpublic personal financial information the licensee discloses and the categories of third parties with whom the licensee has contracted.

Sample Clause A-5, Alternative 1:

We may disclose the following information to companies that perform marketing services

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on our behalf or to other financial institutions with whom we have joint marketing agreements:

- Information we receive from you on applications or other forms, such as [provide illustrative examples, such as “your name, address, social security number, assets, income, and beneficiaries”];
- Information about your transactions with us, our affiliates or others, such as [provide illustrative examples, such as “your policy coverage, premium, and payment history”]; and
- Information we receive from a consumer reporting agency, such as [provide illustrative examples, such as “your creditworthiness and credit history”].

Sample Clause A-5, Alternative 2:

We may disclose all of the information we collect, as described [describe location in the notice, such as “above” or “below”] to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements.

A-6—Explanation of opt out right (institutions that disclose outside of the exceptions)

A licensee may use this clause, as applicable, to meet the requirement of section 38a-8-109(a)(6) of the Regulations of Connecticut State Agencies to provide an explanation of the consumer’s right to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the method(s) by which the consumer may exercise that right. The licensee may use this clause if the licensee discloses nonpublic personal financial information other than as permitted.

Sample Clause A-6:

If you prefer that we not disclose nonpublic personal financial information about you to nonaffiliated third parties, you may opt out of those disclosures, that is, you may direct us not to make those disclosures (other than disclosures permitted by law). If you wish to opt out of disclosures to nonaffiliated third parties, you may [describe a reasonable means of opting out, such as “call the following toll-free number: (insert number)”].

A-7—Confidentiality and security (all institutions)

A licensee may use this clause, as applicable, to meet the requirement of section 38a-8-109(a)(8) of the Regulations of Connecticut State Agencies to describe its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information.

Sample Clause A-7:

We restrict access to nonpublic personal financial information about you to [provide an appropriate description, such as “those employees who need to know that information to provide products or services to you”]. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal finan-

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cial information.

(Adopted effective June 7, 2002)

Safeguarding Customer Financial Information

Sec. 38a-8-124. Definitions

As used in sections 38a-8-124 to 38a-8-126, inclusive, of the Regulations of Connecticut State Agencies:

(1) “Customer” means “customer” as defined in section 38a-8-106 of the Regulations of Connecticut State Agencies.

(2) “Customer information” means “nonpublic personal financial information” as defined in section 38a-8-106 of the Regulations of Connecticut State Agencies, about a customer, whether in paper, electronic, or other form that is maintained by or on behalf of the licensee.

(3) “Customer information systems” means the methods used to access, collect, store, use, transmit, protect or dispose of customer information, and includes, but is not limited to, an “information processing system” as defined in section 1-267 of the Connecticut General Statutes.

(4) “Licensee” means “licensee” as defined in section 38a-8-106 of the Regulations of Connecticut State Agencies.

(5) “Service provider” means a person that provides services to the licensee and maintains, processes or otherwise is permitted access to customer information.

(Adopted effective January 1, 2004)

Sec. 38a-8-125. Information security program

Each licensee shall implement a comprehensive written information security program that includes administrative, technical and physical safeguards for the protection of customer information that are appropriate to the size and complexity of the licensee and the nature and scope of its activities. Each information security program shall be designed to: ensure the security and confidentiality of customer information; protect against any anticipated threats or hazards to the security or integrity of customer information; and protect against unauthorized access to, or use of, customer information that could result in substantial harm or inconvenience to any customer.

(Adopted effective January 1, 2004)

Sec. 38a-8-126. Developing and implementing an information security program

The actions and procedures described in this section are examples of methods of implementation of the requirements of section 38a-8-125 of the Regulations of Connecticut State Agencies. These examples are non-exclusive illustrations of actions and procedures that licensees may follow to implement section 38a-8-125 of the Regulations of Connecticut State Agencies.

(1) The licensee identifies reasonably foreseeable internal or external threats that could

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result in unauthorized disclosure, misuse, alteration or destruction of customer information or customer information systems. The licensee assesses the likelihood and potential damage of the risks presented by the threats it has identified, taking into consideration the sensitivity of customer information. The licensee assesses the sufficiency of the policies and procedures it has in place to control the risks it has identified.

(2) The licensee designs its information security program to control the identified risks, commensurate with the sensitivity of the information and the complexity and scope of the licensee's activities. The licensee trains staff, as appropriate, to implement the licensee's information security program and regularly tests or otherwise regularly monitors the key controls, systems and procedures of its information security program. The frequency and nature of these tests or other monitoring practices are determined by the licensee's risk assessment.

(3) The licensee exercises due diligence in selecting service providers, and requires its service providers to implement measures designed to meet the objectives of section 38a-8-125 of the Regulations of Connecticut State Agencies and takes appropriate steps to confirm that its service providers have done so.

(4) The licensee monitors, evaluates and adjusts, as appropriate, its information security program to reflect any relevant changes in technology, the sensitivity of its customer information, internal or external threats to information, and the licensee's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements and changes to its customer information systems.

(Adopted effective January 1, 2004)