

Legislative History for Connecticut Act

PA 16-206

SB436

Senate	883-885, 931-932	5
Insurance & Real Estate	1198, 1200-1201, 1311- 1332	25
House Transcripts have not been received. They are available on CGA website, but are not the Official copy. Contact House Clerk for assistance (860) 240-0400		30

**Transcripts from the Joint Standing Committee Public
Hearing(s) and/or Senate and House of Representatives
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**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2016**

**VOL. 59
PART 3
679 – 1032**

cf
SENATE

205
April 20, 2016

Thank you, Madam President. If the clerk can now call calendar page 11, Calendar 302, Senate Bill 436.

THE CHAIR:

Mr. Clerk.

THE CLERK:

On Page 11, Calendar 302, Substitute for Senate Bill Number 436, AN ACT CONCERNING INSURER CORPORATE GOVERNANCE ANNUAL DISCLOSURES AND THE REGULATION OF RISK RETENTION GROUPS. There are amendments.

THE CHAIR:

Senator Crisco, good evening, sir.

SENATOR CRISCO (17TH):

Good evening, Madam President. Madam President, I move acceptance of the Joint Committee's favorable report and passage of the bill.

THE CHAIR:

Motions on acceptance and passage. Will you remark, sir?

SENATOR CRISCO (17TH):

Yes, Madam President. Madam President, the clerk has an amendment, LCL Number 4370. I move its adoption and I be given permission to summarize.

THE CHAIR:

cf
SENATE

206
April 20, 2016

Mr. Clerk.

THE CLERK:

LCO Number 4370, Senate "A" is offered by Senator
Crisco.

THE CHAIR:

The motions on adoption. Will you remark, Mr --
Senator Crisco?

SENATOR CRISCO (17TH):

Thank you, Madam President. Madam President, this amendment is a strike-all, but more -- it really helps us retain our reputation as the number one insurance state in the country. The proposal adopts a Corporate Governance Annual Disclosure Model Act and amends existing Risk Retention Group statutes to bring them in line with the NAIC Model Risk Retention Act. This -- this amendment brings the language into conformity with the model act. It is extremely important. The proposal will enhance the insurance commission's regulatory oversight of the domestic insurance and insure groups by obtaining critical information regarding corporate governance activities and will increase consistency, compliance, with international standards. This model act expect to become a requirement for NAIC accreditation in the near future and will be needed for all future NAIC accreditations such as adopting a captive insurance legislation as we did last year.

THE CHAIR:

cf
SENATE

207
April 20, 2016

Will you remark on -- on Senate "A"? Will you
remark on Senate "A"? If not, I'll try your minds.
All those in favor of Senate "A", please say aye.

SENATORS:

Aye.

THE CHAIR:

Opposed. Senate "A" is adopted. Senator Crisco.
SENATOR CRISCO (17TH):

Madam President, if there's no objection, I ask it
be put on the Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, sir. Senator
Crisco. I mean, sorry, Senator Duff.

SENATOR DUFF (25TH):

Thank you, Madam President. Madam President, if the
clerk -- I'm honored. Very -- I'm complimented. If
the clerk can now call calendar page 12, Calendar
314, Senate Bill 103.

THE CHAIR:

Mr. Clerk.

THE CLERK:

On Page 12, Calendar 314, Substitute for Senate Bill
Number 103.

THE CHAIR:

cf
SENATE

253
April 20, 2016

SENATOR DUFF (25TH):

Thank you, and that, I believe is the end of our Consent Calendar. If the clerk can now call the items on the Consent Calendar, followed by a vote on our Consent Calendar today.

THE CHAIR:

Mr. Clerk. We gotta' wait two seconds to get this on, up and running, and then we will start getting the list called for you, sir.

Mr. Clerk, please call the Consent Calendar.

THE CLERK:

On page 2, Calendar 131, Senate Bill 204. Page 3, Calendar 133, Senate Bill 207. Page 3, Calendar 145, Senate Bill 132. Page 4, 180 -- Calendar 183, Senate Bill 236. Page 5, Calendar 192, Senate Bill 230. Page 6, Calendar 232, Senate Bill 254. Page 7, Calendar 243, Senate Bill 364. Page 8, Calendar 261, Senate Bill 233. Also on page 8, Calendar 254, Senate Bill 178. Page 8, Calendar 263, Senate Bill 252. Page 9, Calendar 274, Senate Bill 244. Page 9, Calendar 283, Senate Bill 306. Page 10, Calendar 294, Senate Bill 283. Also on page 10, Calendar 297, Senate Bill 372. Page 11, Calendar 302, Senate Bill 436. Page 11, Calendar 309, Senate Bill 398. Page 12, Calendar 314, Senate Bill 103. On page 23, Calendar 420, House Bill 5350. Page 27, Calendar 70, Senate Bill 72. Page 28, Calendar 87, Senate Bill 107. Page 29, Calendar 126. Senate Bill 197. Page 30, Calendar 150, Senate Bill 161. Page 32, Calendar 199, Senate Bill 20. And page 35, Calendar 270, Senate Bill 288.

cf
SENATE

254
April 20, 2016

THE CHAIR:

Mr. Clerk, will you please call a roll call vote on the Consent Calendar? The machine will be open.

THE CLERK:

Immediate Roll Call has been ordered in the Senate.
Immediate Roll Call on today's Consent Calendar has been ordered in the Senate.

THE CHAIR:

Senator Fonfara.

All members have voted, all members have voted. The machine will be closed. Mr. Clerk, will you please call the tally on the Consent Calendar?

THE CLERK:

On Today's Consent Calendar.

Total number voting	35
Necessary for Adoption	18
Those voting Yea	35
Those voting Nay	0
Those absent and not voting	1

THE CHAIR:

The Consent Calendar passes. Senator Duff.

SENATOR DUFF (25TH):

Thank you, Madam President. Madam President, does the clerk have Senate Agenda Number 2 on his desk?

**JOINT
STANDING
COMMITTEE
HEARINGS**

**INSURANCE AND
REAL ESTATE
PART 3
963 – 1385**

2016

1
dm/jh

March 15, 2016
1:00 P.M.

INSURANCE AND
REAL ESTATE COMMITTEE

CHAIRPERSONS: Senator Crisco
 Senator Hartley
 Representative Megna
 Representative Zoni

SENATORS: Kelly

REPRESENTATIVES: Arce, Currey, Floren,
 Johnson, Kupchick,
 MacLachlan

REP. MEGNA (97TH): Just when people come up, identify yourself, speak in the mic and make sure the mic is lit up like mine over here. There is a button over there at the desk. You will have three minutes to testify. You will hear the buzzer go off when your time is up. We have your testimony, we put it online. We put it on record. We have it and we have the ability to ask questions once you finish your testimony too. With that, the first hour is going to be legislators, agencies and municipalities and the first individual up on SENATE BILL 372 is Commissioner Wade. Commissioner, maybe I can have somebody move that camera a little bit so I can see you, please. If you move it back this way or that way, thank you.

COMMISSIONER WADE: If it's alright with you, I've got four bills. I will do all the testimony and then I will be happy to answer any questions. So, I appreciate the opportunity to be before you today. Will start with SENATE BILL 433, WHICH IS AN ACT CONCERNING STANDARDS AND REQUIREMENTS FOR HEALTHCARE CARRIER PROVIDER NETWORKS AND CONTRACTS BETWEEN HEALTHCARES AND PARTICIPATING PROVIDERS.

SB 372
SB 375
SB 436

The bill would also give consumers the information that they need to properly appeal denials by requiring carriers to provide a link to their clinical reasons for the denial.

In addition, the bill provides carriers with the flexibility to extend coverage to new types of treatment made available through advances in medical technology without having to wait for clinical criteria to catch up. We believe this provision will give consumers access to newer treatment earlier in the process. The department continues to work with the mental health community including providers, facilities and consumers as well as the insurance industry to collect relevant treatment and coverage data for both children and adults on this all-important issue that affects families from all corners of society.

SENATE BILL 375 IS AN ACT AUTHORIZING MULTI-STATE HEALTHCARE CENTERS WHICH ARE HMOs IN CONNECTICUT AND ELIMINATING HEALTHCARE UTILIZATION REVIEW REPORT FILING REQUIREMENT. The main thrust of this legislation is to facilitate the ability of HMOs to operate across state lines. It is important for Connecticut's economy and its domestic HMOs because of the way the industry has evolved over the years. Intense competitive pressures have resulted in companies consolidating the operations of their HMOs based in other states within a non-Connecticut legal entity under the laws that permit HMOs to conduct business in multi-jurisdictions. The second part of the bill eliminates the duplicative reporting requirement.

SENATE BILL 436 IS AN ACT CONCERNING INSURED CORPORATE GOVERNMENT'S ANNUAL DISCLOSURE IN THE

INSURANCE AND
REAL ESTATE COMMITTEE

March 15, 2016

1:00 P.M.

REGULATION OF RISK RETENTION GROUPS. This bill would enhance the department's core mission of consumer protection by giving the department greater authority of domestic insurer or insurance groups by requiring a confidential annual disclosure of corporate government's practices. It would also enhance the department's regulatory authority over risk retention groups which are self-insurers created by the federal government whose regulatory framework has historically been preempted by state law. Both of these provisions are National Association of Insurance Commissioner Accreditation requirements. We thank the committee for the opportunity to come out on these four bills and for raising them.

REP. MEGNA (97TH): Thank you commissioner. Thank you for your testimony and thank you for your hard work on bills like the bill that you brought in front of this committee. I appreciate that. Are there any questions of the commissioner on any of the bills that she testified on? Thank you very much commissioner.

COMMISSIONER WADE: Thank you.

REP. MEGNA (97TH): Is Senator Looney here? We are going to move over to the public portion. SENATE BILL 433. The first speaker up is Rosana?

ROSANA GARCIA: Good afternoon committee members. My name is Rosana Garcia and I am the Policy Associate with Universal Healthcare Foundation of Connecticut. We are here to support SENATE BILL 433 and to recommend some ways to further strengthen consumer protection. Network adequacy is a crucial component of any health insurance plan. What it



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Testimony Insurance and Real Estate Committee March 15, 2016

Senate Bill No. 436 – An Act Concerning Insurer Corporate Governance Annual Disclosure and the Regulation of Risk Retention Groups.

Senator Crisco, Representative Megna, Rankings Members, and members of the Insurance and Real Estate Committee, the Insurance Department would like to thank the Committee for introducing this initiative on our behalf and raising **Senate Bill No. 436 An Act Concerning Insurer Corporate Governance Annual Disclosure and the Regulation of Risk Retention Groups.**

Senate Bill No. 436 would enhance the Department's core mission of consumer protection by:

- Giving the Department greater authority over a domestic insurer or insurance group by requiring a confidential annual disclosure of corporate governance practices.
- Enhancing the Department's regulatory oversight of Risk Retention Groups (RRGs), self-insurers created by the federal government and whose regulatory framework has historically pre-empted state laws.

Corporate Governance

Since the 2008 financial crisis, it became important that state insurance regulators have a better understanding of insurers' governance practice. As a result, the National Association of Insurance Commissioners (NAIC), set standards in the form of a 2014 model law that requires a domestic insurer to provide confidential corporate governance disclosure annually to its home-state regulator as part of the solvency-monitoring process. By adopting this standard, Connecticut will respond to existing regulatory needs and it will assist Connecticut and other U.S. insurance regulators in achieving greater consistency with international standards.

Additionally, the Department anticipates that adopting this legislation, which would take effect, January 1, 2017, will allow the Department meet future NAIC accreditation requirements.

About the Connecticut Insurance Department: The mission of the Connecticut Insurance Department is to protect consumers through regulation of the industry, outreach, education and advocacy. The Department recovers an average of more than \$4 million yearly on behalf of consumers and regulates the industry by ensuring carriers adhere to state insurance laws and regulations and are financially solvent to pay claims. The Department's annual budget is funded through assessments from the insurance industry. For every dollar of direct expense, the Department brings in about \$7.45 to the state in revenues. Each year, the Department returns more than \$215 million in assessments, fees and penalties to the state's General Fund.

Risk Retention Groups

Risk Retention Groups are a creation of federal law and essentially are entities allowed to self-insure their commercial liability risk to create their own insurance company. However, they have operated largely outside the framework of state law and have been primarily regulated by the state in which they are domiciled even when selling insurance coverage in other states.

Consumers are ill-served by what we believe is a dangerous gap in regulation and we need only point to a recent example of an RRG that went bankrupt leaving dozens of Connecticut policyholders – mostly small business owners – exposed without liability coverage.

The Indemnity Insurance Company (IIC), domiciled in Delaware, was one of the largest RRGs providing liquor liability coverage for bars and restaurants around the country, including many establishments here in Connecticut.

Two years ago the company was declared insolvent by Delaware regulators, ordered into liquidation and had to cancel all its policies. Policyholders lost their premiums and coverage. There was no insurance company to pay damages or legal fees for pending lawsuits. Liability lawsuit judgments against the policyholders could not be paid. Plaintiffs only course was to go directly against the policyholders' assets. At the time of the liquidation, there were 68 liquor liability lawsuits pending against IIC policyholders in Connecticut.

Additionally, the Connecticut Insurance Guaranty Fund, which covers policyholders when companies go bankrupt, could not step in due to federal preemption of risk retention groups.

Senate Bill 436 will establish sound corporate governance standards for RRGs and amend provisions within Chapter 698e concerning risk retention groups to closely track with provisions of NAIC Model Risk Retention Act, which was recently revised in 2011.

Finally, adopting these provisions is of critical importance in maintaining the Department's NAIC accreditation. The NAIC Financial Regulation Standards and Accreditation Program revised its standards to require states to have laws enacted **no later than January 1, 2017**, that are substantially similar to the NAIC Model Risk Retention Act provisions governing corporate governance principles.

The Insurance Department thanks the Insurance and Real Estate Committee for the opportunity to provide this testimony in support of S.B. 436. The Department respectfully requests the Committee give a favorable substitute report to S.B. 436. These new provisions would be effective January 1, 2017 and are summarized in the attachment at the end of this testimony, along with proposed changes to the text of the bill.

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Senate Bill No. 436 (Raised)
(LCO No. 2931)

Summary

Corporate Governance
(Section 1)

[Comment: The Insurance Department requested legislation to adopt the NAIC Corporate Governance Annual Disclosure Model Act (Model Act). The Department notes that the Legislative Commissioner's Office (LCO) did not incorporate into Raised Bill 436 Section 1.A. of the Model Act concerning the purpose of the legislation.]

Subsection (a) contains definitions.

Subsection (b) contains the annual corporate governance annual disclosure (CGAD) and filing requirements. ***[Comment: The Insurance Department requests the insertion of the following sentence that was omitted in the bill in order to conform with the Model Act Section 3.C.: at the end of line 40, insert: "An insurer not required to submit a CGAD under this subsection shall do so upon the Commissioner's request."]***

Subsection (c) specifies the contents of the CGAD.

Subsection (d) (1) specifies that for purposes of completing the CGAD, the insurer or insurance group may provide the required information on governance activities that occur on any level of their corporate structure, depending on the structure of the insurer or group's corporate governance system as noted therein; (2) the insurer or group may utilize other existing documents that furnish information comparable to that required in subsection (c); (3) allows the insurer or group to have some discretion over responses to the CGAD so long as the responses convey sufficient information to the Commissioner regarding corporate governance, structure and policies, and requires the insurer or group to maintain any CGAD-related documents and supporting information and make such available to the Commissioner upon request; and (4) requires the CGAD to include the signature of the insurer or group's CEO or corporate secretary attesting to the fact that the insurer or group has implemented the policies set forth in the CGAD. ***[Comment: The Insurance Department requests that in line 143, after the word "group" the following word be inserted: "should".]***

Subsection (e) provides for the confidentiality and privileged status of corporate governance documents, materials or other information, including the CGAD that are obtained by, created by or disclosed to the Commissioner or any other person pursuant to this section. ***[Comment: 1. The Department requests in line 188, after the word "section" the insertion of the following: "are recognized by this state as being proprietary and to contain trade secrets and".***

[Comment: 2.

The Insurance Department requests the insertion of the following sentence that was omitted in the bill in order to conform with the Model Act: at the end of line 197, insert: "Nothing in this
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subsection shall be construed to require written consent of the insurer before the Commissioner may share or receive confidential documents, materials or other CGAD-related information pursuant to subdivision (3) of this subsection to assist in the performance of the Commissioner's regular duties." Comment 3. The Insurance Department requests that in line 266, the word "subsection" be replaced with "section" so that there will be no waiver of any applicable privilege or claim of confidentiality in any of the CGAD-related information as a result of disclosure to the Commissioner under this section.]

Subsection (f) authorizes the Commissioner to retain, at the insurer's expense, third-party consultants, including attorneys, actuaries, accountants and other experts not otherwise a part of the Commissioner's staff as may be reasonably necessary to assist in reviewing the corporate governance annual disclosure and related information or the insurer's compliance with this Act.

Subsection (g) imposes a \$175 per day penalty for failure to file the corporate governance annual disclosure statement with the Commissioner.

Correlation Table

<u>NAIC Model Act</u>	<u>Raised Bill No. 436</u>
Section 1. Purpose and Scope.	
A.	Omitted
B.	Lines 289-292
C.	Omitted, but see line 31
Section 2. Definitions.	Lines 1-29
Section 3. Disclosure Requirement.	
A.	Lines 30-40
B.	Lines 178-184
C.	Omitted
D.	Lines 138-153
E.	Lines 270-274
F. (NAIC Model Reg. Sec. 4.F. used)	Lines 154-161
(NAIC Model Reg. Sec. 4.G. used)	Lines 41-44
Section 4. Rules and Regulations.	Omitted
Section 5. Contents of CGAD.	
A.	Lines 162-167, 170-174
B.	Lines 174-177
(NAIC Model Reg. Sec. 5. used)	Lines 45-137, 167-170
Section 6. Confidentiality.	
A.	Lines 185-197
B.	Lines 198-203
C.	Lines 204-227
D.	Lines 267-269
E.	Lines 263-266

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Section 7. NAIC and Third-party Consultants.	
A.	Lines 275-282
B.	Lines 282-283
C.	Omitted, but see lines 211-217
D.	Lines 284-288
E.	Lines 228-262
Section 8. Sanctions.	Lines 293-299
Section 9. Severability Clause	Omitted, but see C.G.S. § 1-3

Risk Retention Groups (§§ 2 – 8)

Sec. 2 amends the definitions in Section 38a-250 to add "NAIC", and to revise definition "plan of operation or a feasibility study" to specify that the analysis contained in any such plan or study shall include activities for each state in which the risk retention group (RRG) intends to operate.

Sec. 3 amends Conn. Gen. Stat. § 38a-251 concerning the licensure and regulation of RRGs chartered in this state. New provisions in **subsection (b)** will require RRGs to submit for the Commissioner's approval an appropriate revision within ten days of any subsequent material change in any item of the plan of operation or in the feasibility study, and the RRG may not offer any additional kinds of liability insurance in any state until such revision is approved.

[Comment: the Insurance Department requests this language to be modified as follows: 1. In line 465, after the word "group" insert "seeking to be chartered in this state"; 2. In lines 468-469 delete the words "not later than ten days after any such change occurs or has been made"; 3. In line 471, insert before the word "unit" the words: "or operate under any other material change including changes in rates". New provisions in **subsection (c)** will require RRGs to provide the Commissioner at the time of filing its application for a charter, information on the identity of the initial members of the RRG, the RRG organizers, persons who will provide administrative services or otherwise influence or control coverages to be afforded, and the states in which the RRG intends to operate.

Sec. 4 Will establish corporate governance standards for RRGs. (A majority of independent directors on the RRG board of directors, audit committee, adoption and disclosure of governance standards, adoption of business conduct and ethics for officers, directors and employees, and reporting of material non-compliance of such standards to the Commissioner). **[Comment: These provisions are based on the NAIC Model Risk Retention Act Sec. 3.D, which are required in order for the Insurance Department to maintain its accreditation by the NAIC. Comment: the Insurance Department requests that in lines 547-550 the following words be deleted: "notified the commissioner in writing of its intent to enter into such contract at least thirty days prior to entering into such contract and the commissioner has not disapproved such contract with such period" and in lieu thereof, insert the following words: "submitted such change in the plan of operation and received the Commissioner's prior approval."]**

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Sec. 5 amends Conn. Gen. Stat. § 38a-252. The risk retention group shall submit a copy of any material revision to its plan of operation or feasibility study required by subsection (b) of section 38a-251 within thirty days of the date of the approval of such revision by the Commissioner of its chartering state, or if no such approval is required, within thirty days of filing.

Sec. 6 makes minor changes to Conn. Gen. Stat. § 38a-253 concerning submission of information to the Commissioner from RRGs domiciled outside Connecticut.

Sec. 7 makes a minor change to Conn. Gen. Stat. § 38a-255 to require in addition to every policy, that every application form for insurance from a risk retention group shall contain a notice that the risk retention group may not be subject to all the insurance laws and that the insurance guaranty association funds are not available for the risk retention group.

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SB 436 AN ACT CONCERNING INSURER CORPORATE GOVERNANCE ANNUAL DISCLOSURES AND THE REGULATION OF RISK RETENTION GROUPS

Statement of the American Insurance Association

March 15, 2016

The American Insurance Association is a leading national trade association representing approximately 325 major property and casualty insurance companies that collectively underwrite nearly \$117 billion annually in direct property and casualty premiums nationwide. Our members range in size from small companies to the largest insurers with global operations and include insurance companies that write coverage in the state of Connecticut. We are pleased to provide comments regarding SB 436, which seeks to conform Connecticut statute to the National Association of Insurance Commissioners (NAIC) Corporate Governance Annual Disclosure Model Act.

The NAIC Corporate Governance Annual Disclosure (CGAD) Model Act and corresponding Model Regulation, both adopted in 2014, establish a core set of standards requiring insurers to provide detailed narratives of their corporate governance structures and practices on an annual basis. Such standards, which comprise the CGAD, must be provided to their lead state or domestic regulator in each state that has adopted the Model Act. A copy of the Model Act is provided for further review.

As consistency is important across the states, in general, AIA can support CGAD legislation as long as it conforms and is substantially similar to the NAIC Model Act. While the language incorporated in SB 436 is very close to the Model Act, there are two provisions in particular which should be amended in order to conform more exactly to the Model Act.

First, in section 1 (b) (1), SB 436 provides that insurer groups must submit the CGAD directly to the Insurance Commissioner in any state in which the insurer group has a domestic insurer. This is a deviation from the NAIC Model Act, which simply states that "a copy of the CGAD shall also be provided to the chief regulatory official of any state in which the insurance group has a domestic insurer, upon request of such official." We would prefer that the commissioner have the discretion to determine how the CGAD is provided in this instance and, as such, feel that this is best left up to regulation.

Additionally, SB 436 omits important language from the NAIC Model Act which provides that CGAD related information is "recognized by this state as being proprietary and to contain trade secrets." It is critically important that this language is included in the bill to ensure that insurer competitiveness is not irreparably harmed. This, in fact, is one of the key tenets of the NAIC CGAD Model Act as the stated purpose of the Act is as follows: "Provide for the confidential treatment of the corporate governance annual disclosure and related information that will contain confidential and sensitive information related to an insurer or insurance group's internal operations and proprietary and trade secret information which, if made public, could potentially cause the insurer or insurer group competitive harm or disadvantage."

Thank you for the opportunity to provide comments and share our concerns on this issue. For the foregoing reasons, AIA urges the Committee to adopt amendments to SB 436 to bring it into greater conformance with the NAIC Model Act.

Alison Cooper
Regional Vice President, Northeast Region

CORPORATE GOVERNANCE ANNUAL DISCLOSURE MODEL ACT**Table of Contents**

Section 1.	Purpose and Scope
Section 2.	Definitions
Section 3.	Disclosure Requirement
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Section 5.	Contents of Corporate Governance Annual Disclosure
Section 6.	Confidentiality
Section 7.	Third-party Consultants
Section 8.	Sanctions
Section 9.	Severability Clause
Section 10.	Effective Date

Section 1. Purpose and Scope.**A. The purpose of this Act is to:**

1. Provide the Insurance Commissioner a summary of an insurer or insurance group's corporate governance structure, policies and practices to permit the Commissioner to gain and maintain an understanding of the insurer's corporate governance framework.
2. Outline the requirements for completing a corporate governance annual disclosure with the Insurance Commissioner.
3. Provide for the confidential treatment of the corporate governance annual disclosure and related information that will contain confidential and sensitive information related to an insurer or insurance group's internal operations and proprietary and trade secret information which, if made public, could potentially cause the insurer or insurance group competitive harm or disadvantage.

B. Nothing in this act shall be construed to prescribe or impose corporate governance standards and internal procedures beyond that which is required under applicable state corporate law. Notwithstanding the foregoing, nothing in this act shall be construed to limit the Commissioner's authority, or the rights or obligations of third parties, under [INSERT EXAMINATION CITATION]**C. The requirements of this Act shall apply to all insurers domiciled in this state.**

Drafting Note: The requirements of this Act are intended to apply to all commercial risk bearing entities subject to oversight by state insurance departments. Therefore, modifications may be necessary to ensure that all entities intended to be subject to the Act, but not meeting the state's legal definition of "insurer," are appropriately referenced.

Section 2. Definitions.

- A. "Commissioner." The Insurance Commissioner of the State.
- B. "Corporate Governance Annual Disclosure (CGAD)." A Corporate Governance Annual Disclosure shall mean a confidential report filed by the insurer or insurance group made in accordance with the requirements of this Act.

Corporate Governance Annual Disclosure Model Act

- C. "Insurance group." For the purpose of this Act, the term "insurance group" shall mean those insurers and affiliates included within an insurance holding company system as defined in [insert state law equivalent to the model Insurance Holding Company System Regulatory Act.]
- D. "Insurer." The term "insurer" shall have the same meaning as set forth in Section [insert applicable section] of this Chapter, except that it shall not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.
- E. "ORSA Summary Report." The term "ORSA Summary Report" shall mean the report filed in accordance with [insert applicable statutory reference to the Risk Management and Own Risk and Solvency Assessment Model Act.]

Section 3. Disclosure Requirement.

- A. An insurer, or the insurance group of which the insurer is a member, shall, no later than June 1 of each calendar year, submit to the Commissioner a Corporate Governance Annual Disclosure (CGAD) that contains the information described in Section 5B below. Notwithstanding any request from the Commissioner made pursuant to Subsection C, if the insurer is a member of an insurance group, the insurer shall submit the report required by this Section to the Commissioner of the lead state for the insurance group, in accordance with the laws of the lead state, as determined by the procedures outlined in the most recent Financial Analysis Handbook adopted by the NAIC.
- B. The CGAD must include a signature of the insurer or insurance group's chief executive officer or corporate secretary attesting to the best of that individual's belief and knowledge that the insurer has implemented the corporate governance practices and that a copy of the disclosure has been provided to the insurer's board of directors or the appropriate committee thereof.
- C. An insurer not required to submit a CGAD under this section shall do so upon the Commissioner's request.
- D. For purposes of completing the CGAD, the insurer or insurance group may provide information regarding corporate governance at the ultimate controlling parent level, an intermediate holding company level and/or the individual legal entity level, depending upon how the insurer or insurance group has structured its system of corporate governance. The insurer or insurance group is encouraged to make the CGAD disclosures at the level at which the insurer's or insurance group's risk appetite is determined, or at which the earnings, capital, liquidity, operations, and reputation of the insurer are overseen collectively and at which the supervision of those factors are coordinated and exercised, or the level at which legal liability for failure of general corporate governance duties would be placed. If the insurer or insurance group determines the level of reporting based on these criteria, it shall indicate which of the three criteria was used to determine the level of reporting and explain any subsequent changes in level of reporting.
- E. The review of the CGAD and any additional requests for information shall be made through the lead state as determined by the procedures within the most recent Financial Analysis Handbook referenced in Paragraph A of this section.

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- F. Insurers providing information substantially similar to the information required by this Act in other documents provided to the Commissioner, including proxy statements filed in conjunction with Form B requirements, or other state or federal filings provided to this Department shall not be required to duplicate that information in the CGAD, but shall only be required to cross reference the document in which the information is included.

Section 4. Rules and Regulations

The Commissioner may, upon notice and opportunity for all interested persons to be heard, issue such rules, regulations and orders as shall be necessary to carry out the provisions of this Act.

Section 5. Contents of Corporate Governance Annual Disclosure.

- A. The insurer or insurance group shall have discretion over the responses to the CGAD inquiries, provided the CGAD shall contain the material information necessary to permit the Commissioner to gain an understanding of the insurer's or group's corporate governance structure, policies, and practices. The Commissioner may request additional information that he or she deems material and necessary to provide the Commissioner with a clear understanding of the corporate governance policies, the reporting or information system or controls implementing those policies.
- B. Notwithstanding Subsection A of this section, the CGAD shall be prepared consistent with the Corporate Governance Annual Disclosure Model Regulation [INSERT CITATION]. Documentation and supporting information shall be maintained and made available upon examination or upon request of the Commissioner.

Section 6. Confidentiality.

- A. Documents, materials or other information including the CGAD, in the possession or control of the Department of Insurance that are obtained by, created by or disclosed to the Commissioner or any other person under this Act, are recognized by this state as being proprietary and to contain trade secrets. All such documents, materials or other information shall be confidential by law and privileged, shall not be subject to [insert open records, freedom of information, sunshine or other appropriate phrase], shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties. The Commissioner shall not otherwise make the documents, materials or other information public without the prior written consent of the insurer. Nothing in this section shall be construed to require written consent of the insurer before the Commissioner may share or receive confidential documents, materials or other CGAD-related information pursuant to Subsection C below to assist in the performance of the Commissioner's regular duties.

Drafting Note: States should consider whether to specifically invoke their examination statute as applicable additional confidentiality protection for documents submitted pursuant to this Model Act.

- B. Neither the Commissioner nor any person who received documents, materials or other CGAD-related information, through examination or otherwise, while acting under the authority of the Commissioner, or with whom such documents, materials or other information are shared pursuant to this Act shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to Subsection A.

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- C. In order to assist in the performance of the Commissioner's regulatory duties, the Commissioner:
1. May, upon request, share documents, materials or other CGAD-related information including the confidential and privileged documents, materials or information subject to Subsection A, including proprietary and trade secret documents and materials with other state, federal and international financial regulatory agencies, including members of any supervisory college as defined in the [insert cross-reference to appropriate section of Insurance Holding Company System Regulatory Act, as amended], with the NAIC, and with third party consultants pursuant to Section 7, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, material or other information and has verified in writing the legal authority to maintain confidentiality; and
 2. May receive documents, materials or other CGAD-related information, including otherwise confidential and privileged documents, materials or information, including proprietary and trade-secret information or documents, from regulatory officials of other state, federal and international financial regulatory agencies, including members of any supervisory college as defined in the [insert cross-reference to appropriate section of Insurance Holding Company System Regulatory Act, as amended], and from the NAIC, and shall maintain as confidential or privileged any documents, materials or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information.
- D. The sharing of information and documents by the Commissioner pursuant to this Act shall not constitute a delegation of regulatory authority or rulemaking, and the Commissioner is solely responsible for the administration, execution and enforcement of the provisions of this Act.
- E. No waiver of any applicable privilege or claim of confidentiality in the documents, proprietary and trade-secret materials or other CGAD-related information shall occur as a result of disclosure of such CGAD-related information or documents to the Commissioner under this section or as a result of sharing as authorized in this Act.

Section 7. NAIC and Third-party Consultants

- A. The Commissioner may retain, at the insurer's expense, third-party consultants, including attorneys, actuaries, accountants and other experts not otherwise a part of the Commissioner's staff as may be reasonably necessary to assist the Commissioner in reviewing the CGAD and related information or the insurer's compliance with this Act.
- B. Any persons retained under Subsection A shall be under the direction and control of the Commissioner and shall act in a purely advisory capacity.
- C. The NAIC and third-party consultants shall be subject to the same confidentiality standards and requirements as the Commissioner.
- D. As part of the retention process, a third-party consultant shall verify to the Commissioner, with notice to the insurer, that it is free of a conflict of interest and that it has internal procedures in place to monitor compliance with a conflict and to comply with the confidentiality standards and requirements of this Act.

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- E. A written agreement with the NAIC and/or a third-party consultant governing sharing and use of information provided pursuant to this Act shall contain the following provisions and expressly require the written consent of the insurer prior to making public information provided under this Act:
1. Specific procedures and protocols for maintaining the confidentiality and security of CGAD-related information shared with the NAIC or a third-party consultant pursuant to this Act.
 2. Procedures and protocols for sharing by the NAIC only with other state regulators from states in which the insurance group has domiciled insurers. The agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, materials or other information and has verified in writing the legal authority to maintain confidentiality.
 3. A provision specifying that ownership of the CGAD-related information shared with the NAIC or a third-party consultant remains with the Department of Insurance and the NAIC's or third-party consultant's use of the information is subject to the direction of the Commissioner;
 4. A provision that prohibits the NAIC or a third-party consultant from storing the information shared pursuant to this Act in a permanent database after the underlying analysis is completed;
 5. A provision requiring the NAIC or third-party consultant to provide prompt notice to the Commissioner and to the insurer or insurance group regarding any subpoena, request for disclosure, or request for production of the insurer's CGAD-related information; and
 6. A requirement that the NAIC or a third-party consultant to consent to intervention by an insurer in any judicial or administrative action in which the NAIC or a third-party consultant may be required to disclose confidential information about the insurer shared with the NAIC or a third-party consultant pursuant to this Act.

Section 8. Sanctions.

Any insurer failing, without just cause, to timely file the CGAD as required in this Act shall be required, after notice and hearing, to pay a penalty of \$[insert amount] for each day's delay, to be recovered by the Commissioner and the penalty so recovered shall be paid into the General Revenue Fund of this state. The maximum penalty under this section is \$[insert amount]. The Commissioner may reduce the penalty if the insurer demonstrates to the Commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

Section 9. Severability Clause.

If any provision of this Act other than Section 6, or the application thereof to any person or circumstance, is held invalid, such determination shall not affect the provisions or applications of this Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act, with the exception of Section 6, are severable.

Corporate Governance Annual Disclosure Model Act

Section 10. Effective Date.

The requirements of this Act shall become effective on January 1, 2016. The first filing of the CGAD shall be in 2016.

Chronological Summary of Action (all references are to the Proceedings of the NAIC).

Adopted by Executive/Plenary Committee at 2014 Fall National Meeting

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These charts are intended to provide the readers with additional information to more easily access state statutes, regulations, bulletins or administrative rulings which are related to the NAIC model. Such guidance provides the reader with a starting point from which they may review how each state has addressed the model and the topic being covered. The NAIC Legal Division has reviewed each state's activity in this area and has made an interpretation of adoption or related state activity based on the definitions listed below. The NAIC's interpretation may or may not be shared by the individual states or by interested readers.

This state page does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Nor does this state page reflect a determination as to whether a state meets any applicable accreditation standards. Every effort has been made to provide correct and accurate summaries to assist the reader in targeting useful information. For further details, the laws cited should be consulted. The NAIC attempts to provide current information; however, due to the timing of our publication production, the information provided may not reflect the most up to date status. Therefore, readers should consult state law for additional adoptions and subsequent bill status.

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Model Regulation Service—3rd Quarter 2015**CORPORATE GOVERNANCE ANNUAL DISCLOSURE MODEL ACT****KEY:**

MODEL ADOPTION: States that have citations identified in this column adopted the most recent version of the NAIC model in a substantially similar manner. This requires states to adopt the model in its entirety but does allow for variations in style and format. States that have adopted portions of the current NAIC model will be included in this column with an explanatory note.

RELATED STATE ACTIVITY: States that have citations identified in this column have not adopted the most recent version of the NAIC model in a substantially similar manner. Examples of Related State Activity include but are not limited to: An older version of the NAIC model, legislation or regulation derived from other sources such as Bulletins and Administrative Rulings.

NO CURRENT ACTIVITY: No state activity on the topic as of the date of the most recent update. This includes states that have repealed legislation as well as states that have never adopted legislation.

NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Alabama	NO CURRENT ACTIVITY	
Alaska	NO CURRENT ACTIVITY	
American Samoa	NO CURRENT ACTIVITY	
Arizona	NO CURRENT ACTIVITY	
Arkansas	NO CURRENT ACTIVITY	
California	CAL. INS. CODE §§ 936.1 TO 936.9 (2015).	
Colorado	NO CURRENT ACTIVITY	
Connecticut	NO CURRENT ACTIVITY	
Delaware	NO CURRENT ACTIVITY	
District of Columbia	NO CURRENT ACTIVITY	
Florida	NO CURRENT ACTIVITY	
Georgia	NO CURRENT ACTIVITY	
Guam	NO CURRENT ACTIVITY	

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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Hawaii	NO CURRENT ACTIVITY	
Idaho	NO CURRENT ACTIVITY	
Illinois	NO CURRENT ACTIVITY	
Indiana	IND. CODE ANN. § 27-1-4.1 (2015).	
Iowa	IOWA CODE ANN. § 521h (2015).	
Kansas	NO CURRENT ACTIVITY	
Kentucky	NO CURRENT ACTIVITY	
Louisiana	LA. REV. STAT. §§ 22:691.31 to 22:691.38 (2015).	
Maine	NO CURRENT ACTIVITY	
Maryland	NO CURRENT ACTIVITY	
Massachusetts	NO CURRENT ACTIVITY	
Michigan	NO CURRENT ACTIVITY	
Minnesota	NO CURRENT ACTIVITY	
Mississippi	NO CURRENT ACTIVITY	
Missouri	NO CURRENT ACTIVITY	
Montana	NO CURRENT ACTIVITY	
Nebraska	NO CURRENT ACTIVITY	
Nevada	NO CURRENT ACTIVITY	
New Hampshire	NO CURRENT ACTIVITY	
New Jersey	NO CURRENT ACTIVITY	
New Mexico	NO CURRENT ACTIVITY	

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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
New York	NO CURRENT ACTIVITY	
North Carolina	NO CURRENT ACTIVITY	
North Dakota	NO CURRENT ACTIVITY	
Northern Marianas	NO CURRENT ACTIVITY	
Ohio	NO CURRENT ACTIVITY	
Oklahoma	NO CURRENT ACTIVITY	
Oregon	NO CURRENT ACTIVITY	
Pennsylvania	NO CURRENT ACTIVITY	
Puerto Rico	NO CURRENT ACTIVITY	
Rhode Island	NO CURRENT ACTIVITY	
South Carolina	NO CURRENT ACTIVITY	
South Dakota	NO CURRENT ACTIVITY	
Tennessee	NO CURRENT ACTIVITY	
Texas	NO CURRENT ACTIVITY	
Utah	NO CURRENT ACTIVITY	
Vermont	VT. STAT. ANN. tit. 8 § 3316 (2015).	
Virgin Islands	NO CURRENT ACTIVITY	
Virginia	NO CURRENT ACTIVITY	
Washington	NO CURRENT ACTIVITY	
West Virginia	NO CURRENT ACTIVITY	

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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Wisconsin	NO CURRENT ACTIVITY	
Wyoming	NO CURRENT ACTIVITY	

**Statement
Insurance Association of Connecticut
Insurance & Real Estate Committee**

March 14, 2016

**SB 436 AN ACT CONCERNING INSURER CORPORATE GOVERNANCE
ANNUAL DISCLOSURES AND THE REGULATION OF RISK RETENTION GROUPS.**

My name is Dallas Dodge, and I serve as Counsel to the Insurance Association of Connecticut ("IAC"). Thank you for the opportunity to comment on SB 436, An Act Concerning Insurer Corporate Governance Annual Disclosures and the Regulation of Risk Retention Groups.

In 2014, the NAIC adopted a Corporate Governance Annual Disclosure Model Act and supporting Model Regulation, which provides a means for state insurance regulators to receive additional information on the corporate governance practices of U.S. insurers on an annual basis. Senate Bill 436 appears to be an attempt to codify the NAIC model.

Although we are supportive of the NAIC model legislation, SB 436 departs from the model in several substantive ways. We respectfully ask that the Committee amend the bill to address these issues. Some of the differences are highlighted below, and we would welcome the opportunity to work with the committee on other conforming changes as necessary.

First, the NAIC model act explicitly recognizes the "proprietary" nature of Corporate Governance Annual Disclosures (CGADs) and considers these documents to be "trade secrets." This language, however, is missing from SB 436. The confidentiality of these documents, and official recognition of them as proprietary trade secrets, is of

utmost importance. We respectfully request that SB 436 be amended to include this language.

Second, the NAIC model act provides that it shall be the responsibility of the chief insurance regulatory agency of the state in which an insurer/insurance group is domiciled to provide a copy of a CGAD to another state's chief insurance regulatory agency (if a copy is requested by the sister state's regulatory agency). Senate Bill 436, however, puts the onus of providing copies CGAD on the insurer/insurance group. This is inconsistent with the procedure and confidentiality provisions set forth in the NAIC model act for the sharing of documents between state agencies. We respectfully ask that lines 38-40 be conformed to be consistent with the NAIC model act.

Thank you for the opportunity to testify on SB 436.