

Client Alert

MARCH 2009

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Annual Summary of 2008 Connecticut Executive and Legislative Actions Concerning the Insurance Industry

INSURANCE DEPARTMENT

Thomas R. Sullivan's first full year as Commissioner of the State of Connecticut Insurance Department saw an increase in both the number of fines levied against insurance companies and brokers and the total dollar figure for those fines.

In a recently released report, the Department said that its Market Conduct Division collected from 80 insurance companies \$4,179,721 in fines during 2008 for violations of state law. The largest fine was \$2.1 million against Assurant Health for violations arising under short-term health insurance laws and regulations. In addition, Assurant was required to make \$1 million in restitution to policyholders. The most frequent violation in 2008 was doing business as an unlicensed or non-appointed agent in the state.

This activity compares to the \$1.3 million that the Department collected in 2007—a 300% increase. It also appears that the dramatic increase in fines from 2007 to 2008 will continue into 2009 as the Department has already levied fines in excess of \$5.9 million this year for the unauthorized operation of an insurance company in the state.

OFFICE OF THE ATTORNEY GENERAL

The state's Attorney General, Richard Blumenthal, was also active in his dealings with insurance companies and brokers. For 2008, more than \$2.1 million was returned to customers/policyholders and paid to the State as a result of agreements to settle allegations of illegal conduct by insurers in Connecticut. These settlements came in response to investigations into broker compensation and funds allegedly stolen by an insurance agent.

The Attorney General's settlement concerning broker compensation involved allegations of undisclosed compensation paid to a group of brokers selling single premium group annuities. In the case of funds allegedly stolen by a life insurance agent, the insurer voluntarily made restitution to the Connecticut consumers/policyholders for the former broker's purported fraudulent activity.

LEGISLATIVE HIGHLIGHTS

Among the legislative actions in 2008 impacting the insurance industry was Public Act 08-178, which increases the fines the Department may levy for violations of state insurance law. For example, violations of the Managing General Agents Act, for which the maximum fine was \$10,000, may now result in fines up to \$15,000 per violation. Maximum fines for violations of the Insurance Holding Company Act were increased from \$10,000 to \$50,000 per willful violation. Similarly, any unauthorized insurer doing business in Connecticut may now be fined \$50,000 per violation, which is the same amount the Department may now fine insurers for engaging in unfair or prohibited practices. Under the

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new law, a company delivering a health insurance policy that does not meet statutory requirements is now subject to fines of \$10,000 per offense, as are insurance producers acting without a license.

Another new law, Public Act 08-156, establishes a permanent five-member enforcement commission to deal with problems of employers avoiding state and federal labor, employment, and tax law obligations by misclassifying their employees, such as treating an employee as an independent contractor to avoid paying workers' compensation premiums and unemployment taxes. Although this is a law of general applicability, it will apply to insurance companies and, among other things, provides for the examination of how insurers classify their employees, agents, etc.

Finally, Public Act 08-127 permits captive insurance companies to be licensed and domiciled in Connecticut, therefore, captives may now transact life insurance, annuity, health insurance, and commercial risk insurance business in the state.

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