

HB 6387 -- Redline

File No. 676 to Chaptered -- AN ACT CONCERNING INSURANCE DISCRIMINATION AGAINST LIVING ORGAN DONORS AND ESTABLISHING A CHRONIC KIDNEY DISEASE ADVISORY COMMITTEE.

Deletions ~~struck~~ · Insertions underlined

House ~~of Bill-Representatives File~~ No.

~~676~~6387 GeneralPublic AssemblyAct January Session, 2021(Reprint of File No.

152)21-156 HouseAN BillACT No.CONCERNING INSURANCE DISCRIMINATION AGAINST LIVING ORGAN DONORS AND ESTABLISHING A CHRONIC KIDNEY DISEASE ADVISORY COMMITTEE.

~~6387 As Amended by House Amendment Schedule "A" Approved by the Legislative Commissioner May 10, 2021 AN ACT CONCERNING INSURANCE DISCRIMINATION AGAINST LIVING ORGAN DONORS AND ESTABLISHING A CHRONIC KIDNEY DISEASE ADVISORY COMMITTEE.~~

Termsused inthistitle andsection2ofthisact,unlessit appearsfrom~~appears from~~ the context to the contrary, shall have a scope and meaning as set forth in this section.

~~HB6387(3) / "Annuities" File~~means No. all agreements to make periodical payments where the making or continuance of all or some of the series of the payments, or the amount of the payment, is dependent upon the continuance of human life or is for a specified term of years.

~~676~~This ~~HB6387House File~~Bill No.

~~676~~6387 ~~(3)definition "Annuities"does meansnot allapply agreements to make periodical payments wheremade theunder makinga erpolicy continuance of all or some of the series of the payments, or the amount of the payment, is dependent upon the continuance of human life orinsurance. is for a specified term of years. This definition does not apply to payments made under a policy of life insurance.~~

For purposes of this subdivision "liabilities" shall include but not ~~HB6387be /limited File~~to reserves required by statute or by regulations adopted by the commissioner in accordance with the provisions of chapter 54 or Public Act No.

~~676~~21-156 ~~HB63872 File~~of 19 House Bill No.

~~676~~6387 ~~be limited to reserves required by statute or by regulations adopted by the commissioner in accordance with the provisions of chapter 54 or~~ specific requirements imposed by the commissioner upon a subject company at the time of admission or subsequent thereto.

~~(15)Public "MutualAct insurer" means any insurer without capital stock, the~~ HB6387 / File No.

~~676~~21-156 ~~HB63873 File~~of 19 House Bill No.

~~676~~6387 (15) "Mutual insurer" means any insurer without capital stock, the managing directors or officers of which are elected by its members.

(1) Decline to provide coverage, or limit the coverage provided, for an individual under such policy solely because the individual is a living ~~organPublic donor;Act~~ No.

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6387 organ donor;

or ~~HB6387(3) /Otherwise Fileengage No. in discrimination in offering, issuing for delivery, amending or cancelling, or in setting the amount, price or conditions of, coverage for an individual under such policy solely because the individual is a living organ donor.~~

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~~676 (3) Otherwise engage in discrimination in offering, issuing for delivery, amending or cancelling, or in setting the amount, price or conditions of, coverage for an individual under such policy solely because the individual is a living organ donor.~~

(F) is a misrepresentation, including, but not limited to, an intentional misquote of a premium rate, for the purpose of inducing or ~~tendingPublic toAct induceNo. to the purchase, lapse, forfeiture, exchange, conversion or surrender of any insurance policy;~~

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6387 tending to induce to the purchase, lapse, forfeiture, exchange, conversion or surrender of any insurance policy;

Making, publishing, ~~HB6387disseminating, /circulating Fileor No. placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.~~

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~~676 disseminating, circulating or placing before the public, or causing, directly or indirectly, to be~~

~~made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.~~

Filing with any supervisory or other public official, or making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or ~~delivered~~ Public to Act any ~~No.~~ person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive;

~~or 21-156 making any false entry in any book, report or statement of any 19 insurer House with Bill intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, wilfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such~~ HB6387 / File No.

6387 HB6387 delivered File to No. any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive;

676 or making any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, wilfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer.

(J) making claims payments to insureds or ~~beneficiaries~~ Public not Act accompanied No. by statements setting forth the coverage under which the payments are being made;

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6387 beneficiaries not accompanied by statements setting forth the coverage under which the payments are being made;

(L) delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain

substantially the same information; (M) failing to promptly settle claims, where liability has become reasonably clear, under one portion of the ~~HB6387 insurance / policy File coverage No.~~ in order to influence settlements under other portions of the insurance policy coverage;

676 (N) HB6387 failing File to No. promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement;

676 (O) using insurance as policy basis for coverage cash in settlement order with a first party automobile insurance claimant an amount which is less than the amount which the insurer would pay if repairs were made unless such amount is agreed to influence by settlements the underinsured other or portions provided for or by the insurance policy policy coverage;

~~(N) failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement; (O) using as a basis for cash settlement with a first party automobile insurance claimant an amount which is less than the amount which the insurer would pay if repairs were made unless such amount is agreed to by the insured or provided for by the insurance policy.~~

Making false or fraudulent statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee, commission, ~~money~~ Public or Act other No. benefit from any insurer, producer or individual.

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6387 money or other benefit from any insurer, producer or individual.

(B) in the case of policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents ~~HB6387 the saving in collection expense; (C) readjustment of the rate of premium~~ for File a No. group insurance policy based on loss or expense experience, or both, at the end of the first or any subsequent policy year, which may be made retroactive for such policy year.

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676 the saving in collection expense; (C) readjustment of the rate of premium for a group insurance policy based on loss or expense experience, or both, at the end of the first or any subsequent policy year, which may be made retroactive for such policy year.

(A) No person may (i) require, as a condition precedent to the lending of money or extension of credit, or any renewal thereof, that the person to whom such money or credit is extended or whose obligation the

creditor is to acquire or finance, negotiate any policy or contract of insurance through ~~aPublic particularAct insurerNo. or group of insurers or producer or group of producers;~~
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6387 a particular insurer or group of insurers or producer or group of producers;

(B) (i) Subparagraph (A)(iii) of this subdivision shall not include the ~~HB6387interest /which Filemay No. be charged on premium loans or premium advancements in accordance with the security instrument.~~

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~~676 interest which may be charged on premium loans or premium advancements in accordance with the security instrument.~~

~~(12)Public RefusingAct toNo. insure, refusing to continue to insure or limiting the amount, extent or kind of coverage available to an individual or charging an individual a different rate for the same coverage because of physical disability, mental or nervous condition as set forth in section 38a-488a or intellectual disability, except where the refusal, limitation or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.~~

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6387 (12) Refusing to insure, refusing to continue to insure or limiting the amount, extent or kind of coverage available to an individual or charging an individual a different rate for the same coverage because of physical disability, mental or nervous condition as set forth in section 38a-488a or intellectual disability, except where the refusal, limitation or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

Any individual who ~~HB6387is /blind Fileor No. partially blind shall be subject to the same standards of sound actuarial principles or actual or reasonably anticipated experience as are sighted persons with respect to all other conditions, including the underlying cause of the blindness or partial blindness.~~

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~~676 is blind or partially blind shall be subject to the same standards of sound actuarial principles or actual or reasonably anticipated experience as are sighted persons with respect to all other conditions, including the underlying cause of the blindness or partial blindness.~~

(15) (A) Failure by an insurer, or any other entity responsible for providing payment to a health care provider pursuant to an insurance policy, to pay accident and health claims, including, but not limited to, claims for payment or reimbursement to health care providers, within the time periods set forth in subparagraph (B) of this subdivision, unless the Insurance Commissioner determines that a legitimate dispute exists ~~astoPublic coverage,Act liabilityNo. or damagesor that theclaimant has fraudulently caused or contributed to the loss.~~

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6387 asto coverage, liability or damagesor that theclaimant has fraudulently caused or contributed to the loss.

~~HB6387(B) /Each Fileinsurer No. or other entity responsible for providing payment to a health care provider pursuant to an insurance policy subject to this section, shall pay claims not later than:~~

~~676(i) HB6387For Fileclaims filed in paper format, sixty days after receipt by the insurer of the claimant's proof of loss form or the health care provider's request for payment filed in accordance with the insurer's practices or procedures, except that when there is a deficiency in the information needed for processing a claim, as determined in accordance with section 38a-477, the insurer shall (I) send written notice to the claimant or health care provider, as the case may be, of all alleged deficiencies in information needed for processing a claim not later than thirty days after the insurer receives a claim for payment or reimbursement under Public Act No.~~

~~67621-156 (B)12 Eachof insurer19 orHouse otherBill entityNo. responsible for providing payment to a health care provider pursuant to an insurance policy subject to this section, shall pay claims not later than:~~

~~(i)6387 For claims filed in paper format, sixty days after receipt by the insurer of the claimant's proof of loss form or the health care provider's request for payment filed in accordance with the insurer's practices or procedures, except that when there is a deficiency in the information needed for processing a claim, as determined in accordance with section 38a-477, the insurer shall (I) send written notice to the claimant or health care provider, as the case may be, of all alleged deficiencies in information needed for processing a claim not later than thirty days after the insurer receives a claim for payment or reimbursement under the contract, and (II) pay claims for payment or reimbursement under the contract not later than thirty days after the insurer receives the information requested;~~

(16) Failure to pay, as part of any claim for a damaged motor vehicle ~~HB6387under /any Fileautomobile No. insurance policy where the vehicle has been declared to be a constructive total loss, an amount equal to the sum of (A) the settlement amount on such vehicle plus, whenever the insurer takes title to such vehicle, (B) an amount determined by multiplying such settlement amount by a percentage equivalent to the current sales tax rate established in section 12-408.~~

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~~676 under any automobile insurance policy where the vehicle has been declared to be a constructive total loss, an amount equal to the sum of (A) the settlement amount on such vehicle plus, whenever the insurer takes title to such vehicle, (B) an amount determined by multiplying such settlement amount by a percentage equivalent to the current sales tax rate established in section 12-408.~~

~~(17) Any violation of section 42-260, by an extended warranty providerPublic subjectAct toNo. the provisions of said section, including, but not limited to:~~

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6387 provider subject to the provisions of said section, including, but not limited to:

~~(19) With respect to an insurance company, hospital service corporation, health care center or fraternal benefit society providing individual or group health insurance coverage of the types specified in subdivisions (1), (2), (3), (4), (6), (9), (10), (11) and (12) of section 38a-469, refusing to insure, refusing to continue to insure or limiting the amount, HB6387extent /or Filekind No. of coverage available to an individual or charging an individual a different rate for the same coverage because of genetic information.~~

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~~676 extent or kind of coverage available to an individual or charging an individual a different rate for the same coverage because of genetic information.~~

~~An insurance company, hospital service corporation, health care center or fraternal benefit society providing individual health coverage of the types specified in subdivisions (1), (2), (3), Public (4), Act (6), No. (9), (10), (11) and (12) of section 38a-469, shall not be prohibited from refusing to insure or applying a preexisting condition limitation, to the extent permitted by law, to an individual who has been diagnosed with a disease or condition based on medical information other than genetic information and has exhibited symptoms of such disease or condition.~~

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6387 (3), (4), (6), (9), (10), (11) and (12) of section 38a-469, shall not be prohibited from refusing to insure or applying a preexisting condition limitation, to the extent permitted by law, to an individual who has been diagnosed with a disease or condition based on medical information other than genetic information and has exhibited symptoms of such disease or condition.

and HB6387(B) /Develop Filehealth No. education programs that:

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~~676 (B) Develop health education programs that:~~

~~(ii) Include an ongoing health and wellness campaign that is based onPublic relevantAct research;No.~~

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6387 on relevant research;

(1) The chairpersons and ranking members of the joint standing HB6387committee /of Filethe No. General Assembly having cognizance of matters relating to public health, or their designees;

~~676(2) HB6387One Fileappointed by the Senate chairperson of the joint standing Public Act No.~~

~~67621-156 committee16 of the19 GeneralHouse AssemblyBill havingNo. cognizance of matters relating to public health, or their designees;~~

~~(2)6387-One appointed by the Senate chairperson of the joint standing committee of the General Assembly having cognizance of matters relating to public health;~~

~~HB6387(14) /One Fileappointed by the chief executive officer of the National Public Act No.~~

~~67621-156 HB638717 Fileof 19 House Bill No.~~

~~6766387-(14) One appointed by the chief executive officer of the National Kidney Foundation;~~

~~(e)The speaker oftheoftheHouse House ofRepresentativesandthepresident pro tempore of the Senate shall select the chairpersons of the advisory committee from among the members of the advisory committee.~~

~~HB6387Public /Act-File No.~~

~~67621-156 HB638718 Fileof 19 House Bill No.~~

~~6766387 (g) Not later than January 1, 2022, and annually thereafter, the advisory committee shall submit a report on its findings and recommendations to the joint standing committee of the General Assembly having cognizance of matters relating to public health in accordance with the provisions of section 11-4a of the general statutes.~~

~~ThisApproved actJuly shall12, take2021 effectPublic asAct followsNo. and shall amend the following sections:~~

~~Section21-156 119 Januaryof 1,19-2022 38a-1 Sec.~~

~~2 January 1, 2022 New section Sec.~~

~~3 January 1, 2022 38a-816 Sec.4 from passage New section HB6387 / File No.~~

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~~676 The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members~~

~~of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose.~~

~~In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge.~~

~~Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.~~

~~OFA Fiscal Note State Impact:~~

~~Agency Affected Fund-Effect FY 22 \$ FY 23 \$ Resources of the General Fund GF Revenue Minimal Minimal Gain Note:~~

~~GF=General Fund Municipal Impact:~~

~~None Explanation The bill results in a potential minimal revenue gain to the General Fund to the extent additional fines or penalties are assessed for violations of the Connecticut Unfair Insurance Practices Act (CUIPA).~~

~~The bill prohibits certain insurers from discriminating against living organ donors and makes such actions a violation of CUIPA.~~

~~CUIPA fines can range from \$5,000 per violation up to a maximum of \$250,000 in aggregate penalties per insurer in any six month period.~~

~~There is no anticipated cost to the Insurance Department, as the agency has the necessary staff and expertise for enforcement.~~

~~House "A" establishes a nineteen member chronic kidney disease advisory committee.~~

~~The committee shall examine methods to reduce the occurrence of chronic kidney disease by controlling the most common risk factors, diabetes and hypertension, through early detection and preventive efforts at the community level and disease management efforts in the primary care setting.~~

~~The committee shall develop an equitable, sustainable, cost effective plan to raise awareness about the importance of early detection, HB6387 / File No.~~

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~~676 screening, diagnosis and treatment of chronic kidney disease and prevention.~~

~~Not later than January 1, 2022, and annually thereafter, the advisory committee shall submit a report on its findings and recommendations to the Public Health committee.~~

~~House "A" has no fiscal impact as PA 17-236 prohibits transportation allowances for advisory committee members.~~

~~The Out Years The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.~~

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~~676 OLR Bill Analysis HB 6387 (as amended by House "A")* AN ACT CONCERNING INSURANCE DISCRIMINATION AGAINST LIVING ORGAN DONORS.~~

~~SUMMARY This bill prohibits an insurer issuing, delivering, or amending a life, long-term care, or disability-income protection insurance policy from discriminating against living organ donation by:~~

~~1-~~

~~declining or limiting coverage solely because the insured is a living organ donor, 2-~~

~~prohibiting the insured from donating an organ as a condition of maintaining coverage, or 3-~~

~~otherwise discriminating in offering, delivering, issuing, amending, or cancelling a policy by setting prices, conditions, or coverage of the policy solely because the insured is a living organ donor.~~

~~The bill makes a violation of its provisions a Connecticut Unfair Insurance Practices Act (CUIPA) violation (see BACKGROUND).~~

~~The bill also establishes a chronic kidney disease advisory committee to, among other things, work with policymakers, public health organizations and educational institutions to increase awareness of chronic kidney disease and develop related educational programs.~~

~~Beginning by January 1, 2022, the committee must annually report its findings and recommendations to the Public Health Committee.~~

~~*House Amendment "A" establishes the chronic kidney disease advisory committee.~~

~~HB6387 / File No.~~

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~~676 EFFECTIVE DATE:~~

~~January 1, 2022, except the chronic kidney disease advisory committee is effective upon passage.~~

~~CHRONIC KIDNEY DISEASE ADVISORY COMMITTEE Purposes Under the bill, the advisory committee must:~~

~~1-~~

~~work with policy makers, public health organizations, and educational institutions to (a) increase~~

~~awareness of the disease in Connecticut and (b) develop educational programs that reduce the burden of kidney disease, include ongoing health and wellness campaigns based on relevant research, promote preventive screenings, and are promoted through social media and public relations campaigns;~~

~~2-~~

~~examine chronic kidney disease, kidney transplantation (including transplantation as a preferred treatment), living and deceased kidney donation, and racial disparities in the rates of afflicted individuals;~~

~~3-~~

~~examine methods to reduce the occurrence of chronic kidney disease by controlling the most common risk factors (i.e., diabetes and hypertension) through early detection and prevention at the community level and primary care disease management;~~

~~4-~~

~~identify barriers to adopting best practices and the policies available to address them;~~

~~5-~~

~~develop an equitable, sustainable, cost-effective plan to raise awareness about the importance of early detection, screening, diagnosis, and treatment of chronic kidney disease and prevention; and~~

~~6- examine the potential for an opt-out organ or kidney donor registry.~~

~~Membership HB6387 / File No.~~

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~~676 Under the bill, the advisory committee consists of at least 21 required members and includes the chairs and ranking members of the Public Health Committee and the public health commissioner, or their designees.~~

~~The remaining required members are appointed as follows:~~

~~1-~~

~~one appointed by the House speaker who represents the renal provider community;~~

~~2-~~

~~one by the Senate president pro tempore who represents a medical center with a kidney-related program;~~

~~3-~~

~~one each appointed by the House and Senate majority leaders;~~

~~4-~~

~~one each appointed by the House and Senate minority leaders;~~

~~5-~~

~~one appointed by the governor;~~

~~6-~~

~~one each appointed by the chief executive officers of the National Kidney Foundation and the American Kidney Fund;~~

~~7-~~

~~one each appointed by the chairs and ranking members of the Public Health Committee;~~

~~and~~

~~three appointed jointly by Public Health Committee chairs, one who represents the kidney physician community, one who represents a nonprofit organ procurement organization, and one who represents the Connecticut kidney patient community.~~

~~In addition to the members described above, the Public Health Committee chairs may also appoint other members they deem necessary to represent public health clinics, community health centers, minority health organizations, and health insurers.~~

~~Under the bill, any of the legislatively appointed members may be General Assembly members.~~

~~The appointing authorities must make initial appointments by 30 days after the bill's passage and fill any vacancies.~~

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~~676-23 HB6387 File No.~~

~~676 Under the bill, the House speaker and Senate president pro tempore select the advisory committee's chairpersons from among the members.~~

~~The chairpersons must schedule the first meeting and hold it by 60 days after the bill's passage.~~

~~Administration The Office of Legislative Management, in consultation with the advisory committee's chairpersons, must select committee's administrative staff.~~

~~The bill allows the advisory committee to conduct virtual meetings, at the chairpersons' discretion.~~

~~BACKGROUND Connecticut Unfair Insurance Practices Act CUIPA prohibits engaging in unfair or deceptive~~

~~acts or practices in the business of insurance.~~

~~It authorizes the insurance commissioner to conduct investigations and hearings, issue cease and desist orders, impose fines, revoke or suspend licenses, and order restitution for per se violations (i.e., violations specifically listed in statute).~~

~~The law also allows the commissioner to ask the attorney general to seek injunctive relief in Superior Court if he believes someone is engaging in other unfair or deceptive acts not specifically defined in statute.~~

~~Fines may be up to (1) \$5,000 per violation to a \$50,000 maximum or (2) \$25,000 per violation to a \$250,000 maximum in any six-month period if the violation was knowingly committed. The law also imposes a fine of up to \$50,000, in addition to or in place of a license suspension or revocation, for violating a cease and desist order (CGS Sec. 38a-815 et seq.).~~

~~COMMITTEE ACTION Insurance and Real Estate Committee Joint Favorable Yea 18 Nay 0 (03/11/2021) HB6387 / File No.~~

~~676-24~~