

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 25-87—sHB 6981

Insurance and Real Estate Committee

AN ACT CONCERNING ELECTRONIC POSTING OF CERTAIN DOCUMENTS BY INSURERS, NONRENEWAL OR CANCELLATION OF PROPERTY AND CASUALTY INSURANCE POLICIES, FEDERAL HOME LOAN BANKS AND THE INSURERS REHABILITATION AND LIQUIDATION ACT, HYPOTHECATION OF ASSETS AND SURPLUS LINES INSURANCE

SUMMARY: This act makes changes to insurance statutes. Primarily, it does the following:

1. allows insurers to (a) electronically post insurance policy documents on their websites instead of mailing them, if certain conditions are met, and (b) send cancellation notices using the U.S. Postal Service's intelligent mail barcode (USPS IMb) tracking system;
2. amends the Insurers Rehabilitation and Liquidation Act to allow certain activities to proceed when a Federal Home Loan Bank is a party to an agreement with an insurer that is under conservation, rehabilitation, liquidation, or administrative supervision by the Connecticut Insurance Department; and
3. no longer requires brokers who seek to place or procure an insurance policy through an unaffiliated wholesale surplus lines broker to first make and document diligent efforts to obtain coverage from a licensed insurer.

EFFECTIVE DATE: October 1, 2025, except that the provisions on (1) USPS IMb are effective July 1, 2025, and (2) the plan sponsor's election of electronic delivery of insurance documents are effective January 1, 2026.

§§ 1 & 2 — ELECTRONIC INSURANCE DOCUMENTS

Electronic Posting of Insurance Documents (§ 1)

The act allows insurers to post certain insurance policies and endorsements on their websites instead of mailing or delivering them to an insured as long as the documents do not include personally identifiable information. This applies to a policy, contract, certificate, plan, or agreement for life insurance, health insurance, credit life insurance, credit health insurance, annuities, personal homeowners insurance, or personal automobile insurance.

Under the act, if an insurer wants to post these documents on its website, it must do the following:

1. get the insured's approval to receive these documents on the insurer's website;
2. post and have the documents accessible for as long as the policy is in force

and in a way that lets the insured save and print them using readily available free Internet applications;

3. keep records of an expired policy and any endorsements for five years after their expiration date and make them available upon request;
4. give an insured with each declarations page provided at policy issuance or renewal (a) a description of the policy and any endorsements, (b) a way for the insured to get a paper copy of the documents for free, and (c) the website address where the documents are posted;
5. give the insured, when a policy or endorsement changes, notice about the changes and how to get a paper copy of the documents for free upon request; and
6. notify the insured that he or she may request to opt out of the electronic delivery of documents at any time.

Under the act, if an insured does not agree to electronic delivery or requests to opt out of it, the insurer must mail or deliver a paper copy to the insured instead of posting them on its website.

Health Insurance Plan Sponsor Election for Insureds (§ 2)

The act allows an insurer and certain other health care entities to let a health insurance policy plan sponsor agree to electronic delivery of policy communications on behalf of the policy's covered individuals, as long as certain conditions are met. Specifically, each covered individual must be given, at enrollment or within a reasonable amount of time before electronic delivery, notice about the electronic delivery and an opportunity to choose delivery by mail instead. Each covered individual must also be able to opt out of electronic delivery at any time.

This applies to each insurer, health care center (i.e. HMO), hospital or medical service corporation, fraternal benefit society, or other entity that delivers, issues, renews, amends, or continues a health insurance policy in the state on or after January 1, 2026, that covers (1) basic hospital expenses, (2) basic medical-surgical expenses, (3) major medical expenses, or (4) hospital or medical services.

Regulations (§§ 1 & 2)

The act allows the insurance commissioner to adopt regulations to implement the provisions on electronic insurance documents.

§§ 3-8 — U.S. POSTAL SERVICE INTELLIGENT MAIL BARCODE TRACKING

The act lets property and casualty insurers send policy cancellation and nonrenewal notices by USPS IMb or a similar USPS tracking method. This applies generally to property and casualty policies, including homeowners insurance policies (§ 4), personal and commercial risk policies (§§ 5 & 7), and auto insurance policies (§ 8). Under the act, proof of mailing this way is sufficient proof of notice

(§ 3).

For insureds who have effectively designated a third party to receive cancellation or nonrenewal notices, the act also lets a property and casualty insurer require the insureds and third parties to send their notices terminating a third-party designation to the insurer by USPS IMb or similar USPS tracking method (§ 6).

Existing law allows the use of other delivery methods for sending cancellation and nonrenewal notices and third-party designations, including certified mail, mail with return receipt requested, or electronic means.

USPS IMb is a barcode used to sort and track letters within the postal system that identifies the mail's location and estimated delivery times.

§§ 9-13 — FEDERAL HOME LOAN BANKS AND THE INSURERS REHABILITATION AND LIQUIDATION ACT

The act modifies the Insurers Rehabilitation and Liquidation Act (see BACKGROUND). It allows certain activities to proceed regardless of previous prohibitions when a Federal Home Loan Bank (FHL Bank) (see BACKGROUND) is a party to any pledge, security, credit, collateral, loan, advance, reimbursement, or guarantee agreement with an insurance company under conservation, rehabilitation, liquidation, or administrative supervision by the Insurance Department.

Automatic Stays (§ 10)

The act eliminates, for up to 10 business days, the automatic stay that an application or petition for a delinquency proceeding, rehabilitation, or liquidation order typically grants when an FHL Bank is a party. The 10-day period begins on the date of any order starting a delinquency proceeding, whether it is formal, informal, administrative, or judicial.

By law, a stay prohibits anyone other than a receiver from engaging in a wide range of activities that might lessen the value of an insurer's assets or prejudice the rights of policyholders, creditors, or shareholders. These include transferring property, wasting assets, and obtaining judgments against the insurer or its policyholders, among other things. The stay becomes permanent and survives a conservation, rehabilitation, or liquidation order, but the court may modify or grant relief from the stay.

Fraudulent Transfers (§ 11)

Existing law (1) makes a person receiving any property or benefit from an insurer through a fraudulent transfer or obligation personally liable and accountable to the liquidator and (2) allows certain receivers to avoid the transfer or obligation. Under prior law, a transfer or obligation was considered fraudulent if it is made or incurred within one year before the successful filing of a petition for rehabilitation or liquidation without fair consideration or with actual intent to hinder, delay, or defraud creditors. The act removes reference to "actual intent" and instead refers

just to “intent.”

Under the act, a receiver or any other person generally cannot avoid a transfer or obligation that would be considered fraudulent under existing law if it arises in connection with any agreement to which an FHL Bank is a party. But the act allows the receiver or other person to avoid the transfer or obligation only if it was made or incurred with intent to hinder, delay, or defraud the insurer, receiver, or creditors.

Preferences (§ 12)

To the extent agreements to which an FHL Bank is a party have preferences to creditors, the act requires an insurer’s liquidator to carry a preference out. Under existing law, a “preference” is a transfer of the insurer’s property to or for the benefit of a creditor, within one year before the filing of a petition for liquidation, that enables the creditor to obtain a greater percentage of debt than another creditor of the same class. Prior law allowed a liquidator to avoid giving a preference in certain circumstances.

Requirements When Exercising Collateral Rights (§ 13)

When an insurer that is an FHL Bank member is subject to a delinquency proceeding, the act sets requirements for how the FHL Bank may exercise its collateral rights.

Specifically, under the act, if the FHL Bank exercises its rights regarding collateral the insurer pledged, the bank must repurchase any outstanding capital stock that exceeds the amount the insurer must hold as a minimum investment. The bank must do this within seven business days after the delinquency proceeding if the bank determines in good faith that the repurchase is (1) permissible under applicable laws and regulations and the bank’s capital plan and (2) consistent with its capital stock practices that apply to its entire membership.

After a receiver is appointed for the insurer, the FHL Bank must, within 10 business days after a request from the receiver, give the receiver a process and develop a timeline for the following:

1. releasing the insurer’s collateral that exceeds the amount required to support any remaining secured obligations after repaying any loans, according to any agreements between the insurer and bank;
2. releasing any of the insurer’s remaining collateral after repaying all the insurer’s outstanding secured obligations in full;
3. paying any fees the insurer owes and the operation, maintenance, closure, or disposition of deposits and other accounts the insurer has with the bank; and
4. possibly redeeming or repurchasing the bank’s stock or excess stock of any class that the insurer must hold as an FHL Bank member.

Additionally, the FHL Bank must, upon a receiver’s request, give it any available options for the insurer to renew or restructure a loan. The options must be subject to market conditions, the terms of the insurer’s outstanding loans, the FHL Bank’s applicable policies, and the FHL Bank’s compliance with federal laws and

regulations.

§ 14 — HYPOTHECATION OF ASSETS

By law, domestic insurers, HMOs, and fraternal benefit societies are prohibited from pledging, hypothecating (i.e. using as collateral), or otherwise encumbering their assets to secure their own debt, guaranty, or obligations without the insurance commissioner's prior written consent if the amount to be encumbered, along with all other encumbrances, exceeds the lesser of 5% of admitted assets or 25% of policyholder surplus. However, this does not apply to transactions made in the ordinary course of business.

The act explicitly specifies that "the ordinary course of business" includes participating in the FHL Bank system, so the hypothecation of assets prohibition does not apply in that circumstance.

§ 15 — DILIGENT EFFORTS TO PLACE INSURANCE

The act exempts brokers who seek to procure or place an insurance policy through an unaffiliated wholesale surplus lines broker from a requirement to make and document diligent efforts to obtain the insurance from a licensed insurer.

By law, the insurance commissioner must maintain a list of insurance lines that he believes are generally unavailable from licensed insurers (CGS § 38a-741(a)). Such insurance may be provided by surplus lines insurers, whose policies are not reviewed by the Insurance Department.

BACKGROUND

Insurers Rehabilitation and Liquidation Act

The Insurers Rehabilitation and Liquidation Act generally protects the interests of policyholders, claimants, creditors, and the general public in the event of an insurance company's insolvency. It gives the insurance commissioner broad authority to monitor the financial condition of insurers and, when he believes necessary, to place them under administrative supervision or, with court approval, conservation, rehabilitation, or liquidation (CGS § 38a-903 et seq.).

FHL Banks

There are currently 11 regional FHL Banks across the United States. Created by Congress in 1932, each FHL Bank is a member-owned, federally chartered cooperative that provides funding and liquidity to its members to support housing finance and community development.