SB 124-FN - AS AMENDED BY THE SENATE

03/04/2021 0375s
03/25/2021 0857s
03/25/2021 1000s

2021 SESSION

21-0389
06/11

SENATE BILL ***124-FN***

AN ACT adopting omnibus legislation relative to insurance.

SPONSORS: Sen. Cavanaugh, Dist 16

COMMITTEE: Commerce

ANALYSIS

This bill adopts legislation relative to:

I. Travel insurance.

II. Domestic insurance company investments.

III. Self-service storage insurance.

IV. Medicare supplemental insurance.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT adopting omnibus legislation relative to insurance.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Sponsorship. This act consists of the following proposed legislation:

Part I: LSR 21-0389, relative to insurance, sponsored by Sen. Cavanaugh, Prime/Dist. 16; Sen. Watters, Dist. 4; Sen. French, Dist. 7; Rep. Hunt, Ches. 11.

Part II: LSR 21-0520, relative to domestic insurance company investments, sponsored by Sen.D'Allesandro, Prime/Dist. 20; Sen. Watters, Dist. 4; Rep. Hunt, Ches. 11.

Part III: LSR 21-0681, relative to self-service storage insurance, sponsored by Sen. Watters, Prime/Dist. 4; Sen. Cavanaugh, Dist. 16; Rep. Hunt, Ches. 11; Rep. Van Houten Hills. 45.

Part IV: LSR 21-1014, relative to Medicare supplemental insurance, sponsored by Sen. Sherman, Prime/Dist. 24; Sen. Rosenwald, Dist. 13; Sen. Soucy, Dist. 18; Rep. Bartlett, Merr. 19; Rep. Marsh, Carr. 8.

2 Legislation Enacted. The general court hereby enacts the following legislation:

PART I

Relative to insurance.

1 Travel Insurance. RSA 402-L is repealed and reenacted to read as follows:

SALE OF TRAVEL INSURANCE

402-L:1 Short Title. This chapter shall be known as the travel insurance act.

402-L:2 Definitions. In this chapter:

I. "Aggregator site" means an Internet website that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in comparison shopping.

II. "Blanket accident and health travel insurance" means a policy issued to a travel agency or other organization that provides travel-related services, which agency or organization shall be deemed the policyholder and which provides accident and health coverage for all persons for whom travel-related services are provided in accordance with RSA 415:18, I-a.

III. "Blanket personal inland marine travel insurance" means a policy of travel insurance issued to any eligible group providing coverage for specific classes of persons defined in the policy with coverage provided to all members of the eligible group without a separate charge to individual members of the eligible group for personal loss that occurs incidental to travel.

IV. “Cancellation fee waiver” means a contractual agreement between a supplier of travel services and its customer to waive some or all of the non-refundable cancellation fee provisions of the supplier’s underlying travel contract with or without regard to the reason for the cancellation or form of reimbursement. A cancellation fee waiver is not insurance.

V. "Commissioner" means the insurance commissioner.

VI. "Designated responsible producer" means an employee, who is a licensed individual producer, or the limited lines travel insurance producer who has designated the employee as responsible for the limited lines travel insurance producer's compliance with this chapter.

VII. “Eligible group” means 2 or more persons who are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, including, but not limited to, any of the following:

(a) An entity engaged in the business of providing travel or travel services, including, but not limited to, tour operators, lodging providers, vacation property owners, hotels and resorts, travel clubs, travel agencies, property managers, cultural exchange programs, and common carriers, or the operator, owner, or lessor of a means of transportation of passengers, including but not limited to airlines, cruise lines, railroads, steamship companies, and public bus carriers, where with regard to any particular travel or type of travel or travelers, all members or customers of the group have a common exposure to risk attendant to such travel.

(b) A college, school, or other institution of learning, covering students, teachers, employees, or volunteers.

(c) An employer covering any group of employees, volunteers, contractors, board of directors, dependents, or guests.

(d) A sports team, camp, or sponsor thereof, covering participants, members, campers, employees, officials, supervisors, or volunteers.

(e) A religious, charitable, recreational, educational, or civic organization, or branch thereof, covering any group of members, participants, or volunteers.

(f) A financial institution or financial institution vendor, or parent holding company, trustee, or agent of or designated by one or more financial institutions or financial institution vendors, including account holders, credit card holders, debtors, guarantors, or purchasers.

(g) An incorporated or unincorporated association, including labor unions, having a common interest, constitution, and bylaws, and organized and maintained in good faith for purposes other than obtaining insurance for members or participants of such association covering its members.

(h) A trust or the trustees of a fund established, created, or maintained for the benefit of and covering members, employees, or customers, subject to the commissioner’s permitting the use of a trust of one or more associations meeting the requirements of subparagraph (g).

(i) An entertainment production company covering any group of participants, volunteers, audience members, contestants, or workers.

(j) A volunteer fire department, ambulance, rescue, police, court, or any first aid, civil defense, or other such volunteer group.

(k) Preschools, daycare institutions for children or adults, and senior citizen clubs.

(l) An automobile or truck rental or leasing company covering a group of individuals who may become renters, lessees, or passengers defined by their travel status on the rented or leased vehicles; provided that the common carrier, the operator, owner, or lessor of a means of transportation, or the automobile or truck rental or leasing company, is the policyholder under a policy.

(m) Any other group where the commissioner has determined that the members are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, and that issuance of the policy would not be contrary to the public interest.

VIII. “Fulfillment materials” means documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan’s coverage and assistance details.

IX. “Group travel insurance” means travel insurance issued to any eligible group.

X. "Limited lines travel insurance producer" means a:

(a) Licensed managing general underwriter;

(b) Licensed managing general agent or third party administrator;

(c) Licensed insurance producer, including a limited lines producer; or

(d) Travel administrator.

XI. "Offer and disseminate" means providing general information, including a description of the coverage and price, as well as processing the application, collecting premiums, and performing other non-licensable activities permitted by the state.

XII. “Travel administrator” means a person who directly or indirectly underwrites, collects charges, collateral, or premiums from, or adjusts or settles claims on residents of this state, in connection with travel insurance, except that a person shall not be considered a travel administrator if that person’s only actions are as follows:

(a) A person working for a travel administrator to the extent that the person’s activities are subject to the supervision and control of the travel administrator.

(b) An insurance producer selling insurance or engaged in administrative and claims related activities within the scope of the producer’s license.

(c) A travel retailer offering and disseminating travel insurance and registered under the license of a limited lines travel insurance producer in accordance with this chapter.

(d) An individual adjusting or settling claims in the normal course of that individual's practice or employment as an attorney-at-law and who does not collect charges or premiums in connection with insurance coverage.

(e) A business entity that is affiliated with a licensed insurer while acting as a travel administrator for the direct and assumed insurance business of an affiliated insurer.

XIII. "Travel assistance services" means non-insurance services for which the consumer is not indemnified based on a fortuitous event, and if providing the service does not result in transfer or shifting of risk that would constitute the business of insurance. Travel assistance services include, but are not limited to: security advisories; destination information; vaccination and immunization information services; travel reservation services; entertainment; activity and event planning; translation assistance; emergency messaging; international legal and medical referrals; medical case monitoring; coordination of transportation arrangements; emergency cash transfer assistance; medical prescription replacement assistance; passport and travel document replacement assistance; lost luggage assistance; concierge services; and any other service that is furnished in connection with planned travel. Travel assistance services are not insurance and not related to insurance.

XIV.(a) "Travel insurance" means insurance coverage for personal risks incident to planned travel, including but not limited to:

(1) Interruption or cancellation of a trip or event;

(2) Loss of baggage or personal effects;

(3) Damages to accommodations or rental vehicles;

(4) Sickness, accident, disability, or death occurring during travel;

(5) Emergency evacuation;

(6) Repatriation of remains; or

(7) Any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the commissioner.

(b) Travel insurance shall not include major medical plans, which provide comprehensive medical protection for travelers with trips lasting 12 months or longer, including those persons working or residing overseas as an expatriate, or any other product that requires a specific insurance producer license.

XV. "Travel protection plans" means plans that provide one or more of the following: travel insurance, travel assistance services, and cancellation fee waivers.

XVI. "Travel retailer" means a business entity that makes, arranges, or offers planned travel services and may offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a limited lines travel insurance producer.

402-L:3 Requirements.

I. Pursuant to the provisions of RSA 402-J, the commissioner may issue to an individual or business entity that has filed with the commissioner an application for such limited license, a limited lines travel insurance producer license, which authorizes the limited lines travel insurance producer to sell, solicit or negotiate travel insurance through a licensed insurer. No person shall act as a limited lines travel insurance producer or travel retailer unless properly licensed or registered, respectively.

II.(a) A travel retailer may offer and disseminate travel insurance on behalf of and under a limited lines travel insurance producer business entity license only if the following conditions are met:

(1) The limited lines travel insurance producer or travel retailer provides to purchasers of travel insurance:

(A) A description of the material terms or the actual material terms of the insurance coverage;

(B) A description of the process for filing a claim;

(C) A description of the review or cancellation process for the travel insurance policy; and

(D) The identity and contact information of the insurer and the limited lines travel insurance producer.

(2) At the time of licensure, the limited lines travel insurance producer establishes and maintains a register, on a form prescribed by the commissioner, listing each travel retailer that offers travel insurance on the limited lines travel insurance producer's behalf. The register shall be maintained and updated annually by the limited lines travel insurance producer and shall include the name, address, and contact information of the travel retailer and an officer or person who directs or controls the travel retailer's operations, and the travel retailer's federal tax identification number. The limited lines travel insurance producer shall submit such register to the insurance department upon request. The limited lines travel insurance producer shall also certify, upon request, that the registered travel retailer complies with 18 U.S.C. section 1033. The grounds for the suspension, revocation, and the penalties applicable to resident insurance producers under RSA 402 shall be applicable to the limited lines travel insurance producers and travel retailers.

(3) The designated responsible producer, president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance producer's insurance operations has complied with the fingerprinting requirements applicable to insurance producers in the resident state of the limited lines travel insurance producer.

(4) The limited lines travel insurance producer has paid all applicable insurance producer licensing fees.

(5) The limited lines travel insurance producer requires each employee and authorized representative of the travel retailer whose duties include offering and disseminating

travel insurance to receive a program of instruction or training, which may be subject to review by the commissioner. The training material shall, at a minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.

(b) Limited lines travel insurance producers, and those registered under its license, are exempt from all examination requirements.

III. Any travel retailer offering or disseminating travel insurance shall make available to prospective purchasers, brochures or other written materials that have been approved by the travel insurer. Such materials shall include information which, at a minimum:

(a) Provides the identity and contact information of the insurer and the limited lines travel insurance producer;

(b) Explains that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer; and

(c) Explains that an unlicensed travel retailer is permitted to provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

IV. A travel retailer's employee, or authorized representative, who is not licensed as an insurance producer shall not:

(a) Evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage;

(b) Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or

(c) Hold itself out as a licensed insurer, licensed producer, or insurance expert.

V. Any person licensed in a major line of authority as an insurance producer is authorized to sell, solicit, and negotiate travel insurance. A property and casualty insurance producer shall not be required to become appointed by an insurer in order to sell, solicit, or negotiate travel insurance.

402-L:4 Registration; Policy.

I. Notwithstanding any provision of law to the contrary, a travel retailer whose insurance related activities, and those of its employees and authorized representative, are limited to offering and disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer meeting the conditions stated under this chapter, is authorized to do so and receive related compensation, upon registration by the limited lines travel insurance producer as described in RSA 402-L:3, II(a)(2).

II. Travel insurance under this chapter may be provided under an individual policy or under a group or blanket policy.

III. Eligibility and underwriting standards for travel insurance may be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels, provided those standards also meet the state's applicable underwriting standards.

402-L:5 Enforcement.

I. The limited lines travel insurance producer and any travel retailer offering and disseminating travel insurance on behalf of the limited license travel insurance producer and under the limited lines travel insurance producers license shall be subject to RSA 417:4, VIII(e), RSA 402:J:12, and RSA 402-J:15.

II. The commissioner may adopt rules, pursuant to RSA 541-A, relative to the implementation of this chapter.

402-L:6 Travel Protection Plans. Travel protection plans may be offered for one price for the combined features that the travel protection plan offers in this state if:

I. The travel protection plan clearly discloses to the consumer, at or prior to the time of purchase, that it includes travel insurance, travel assistance services, and cancellation fee waivers, as applicable, and provides information and an opportunity, at or prior to the time of purchase, for the consumer to obtain additional information regarding the features and pricing of each; and

II. The fulfillment materials:

(a) Describe and delineate the travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plan; and

(b) Include the travel insurance disclosures and the contact information for persons providing travel assistance services, and cancellation fee waivers, as applicable.

402-L:7 Sales Practices.

I. All persons offering travel insurance to residents of this state are subject to RSA 417, except as otherwise provided in this section. In the event of a conflict between this chapter and other provisions of Title XXXVII regarding the sale and marketing of travel insurance and travel protection plans, the provisions of this chapter shall control.

II. Offering or selling a travel insurance policy that could never result in payment of any claims for any insured under the policy is an unfair trade practice under RSA 417.

III.(a) All documents provided to consumers prior to the purchase of travel insurance, including, but not limited to, sales materials, advertising materials, and marketing materials, shall be consistent with the travel insurance policy itself, including but not limited to, forms, endorsements, policies, rate filings, and certificates of insurance.

(b) For blanket personal inland marine travel insurance policies or certificates that contain pre-existing condition exclusions, information, and an opportunity to learn more about the pre-existing condition exclusions shall be provided any time prior to the time of purchase, and in the coverage's fulfillment materials.

(c)(1) The fulfillment materials and the information described in RSA 402-L:3, II(a)(1) shall be provided to a policyholder or certificate holder as soon as practicable, following the purchase of a travel protection plan. Unless the insured has either started a covered trip or filed a claim under the travel insurance coverage, a policyholder or certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of a travel protection plan until at least:

(A) Fifteen days following the date of delivery of the travel protection plan's fulfillment materials by postal mail; or

(B) Ten days following the date of delivery of the travel protection plan's fulfillment materials by means other than postal mail.

(2) In this section, delivery means handing fulfillment materials to the policyholder or certificate holder or sending fulfillment materials by postal mail or electronic means to the policyholder or certificate holder.

(d) For blanket personal inland marine travel insurance policies or certificates, the company shall disclose in the policy documentation and fulfillment materials whether the travel insurance is primary or secondary to other applicable coverage.

(e) If travel insurance is marketed directly to a consumer through an insurer's Internet website or by others through an aggregator site, it shall not be an unfair trade practice or other violation of law where an accurate summary or short description of coverage is provided on the website page, if the consumer has access to the full provisions of the policy through electronic means.

IV. No person offering, soliciting, or negotiating travel insurance or travel protection plans on an individual or group basis may do so by using negative option or opt out, which would require a consumer to take an affirmative action to deselect coverage, such as unchecking a box on an electronic form, when the consumer purchases a trip.

V. It shall be an unfair trade practice to market blanket travel insurance coverage as free.

VI. When a consumer's destination jurisdiction requires insurance coverage, it shall not be an unfair trade practice to require that a consumer choose between the following options as a condition of purchasing a trip or travel package:

(a) Purchasing the coverage required by the destination jurisdiction through the travel retailer or limited lines travel insurance producer supplying the trip or travel package; or

(b) Agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements prior to departure.

402-L:8 Travel Administrators.

I. Notwithstanding any other provisions of Title XXXVII, no person shall act or represent itself as a travel administrator for travel insurance in this state unless that person:

(a) Is a licensed property and casualty insurance producer in this state for activities permitted under that producer license;

(b) Holds a valid managing general agent license in this state; or

(c) Holds a valid third-party administrator license in this state.

II. A travel administrator and its employees are exempt from the licensing requirements of RSA 402-B for travel insurance it administers.

III. An insurer is responsible for the acts of a travel administrator administering travel insurance underwritten by the insurer, and is responsible for ensuring that the travel administrator maintains all books and records relevant to the insurer to be made available by the travel administrator to the commissioner upon request,

402-L:9 Scope and Purposes.

I. The purpose of this chapter is to promote the public welfare by creating a comprehensive legal framework within which travel insurance may be sold in this state.

II. The requirements of this chapter shall apply to travel insurance that covers any resident of this state, and is sold, solicited, negotiated, or offered in this state, and policies and certificates are delivered or issued for delivery in this state. It shall not apply to cancellation fee waivers or travel assistance services, except as expressly provided in this chapter.

III. All other applicable provisions of this state's insurance laws shall continue to apply to travel insurance except that the specific provisions of this chapter shall supersede any general provisions of law that would otherwise be applicable to travel insurance.

2 Effective Date. Part I of this act shall take effect 90 days after its passage.

Part II

Relative to domestic insurance company investments.

1 Insurance Companies and Agents; Investments and Reserves; Types of Investments. RSA 402:28, I(l)-(n) are repealed and reenacted to read as follows:

(l) Derivative transactions. An insurer may use derivative instruments to engage in hedging transactions, income generation transactions, and replication transactions on the following conditions:

(1) An insurer may enter into hedging transactions if, measured at the time of acquisition after giving effect to such transactions, all of the following apply:

(A) The aggregate statement value of options, caps, floors, and warrants not attached to another financial instrument purchased and used in hedging transactions does not exceed 7-1/2 percent of its admitted assets.

(B) The aggregate statement value of options, caps, and floors written in hedging transactions does not exceed 3 percent of its admitted assets.

(C) The aggregate potential exposure of collars, swaps, forwards, and futures used in hedging transactions does not exceed 6-1/2 percent of its admitted assets.

(D) Transactions entered into to hedge the currency risk of investments denominated in a currency other than United States dollars shall not be included in the limits under

this subparagraph. An insurer may purchase, sell, or enter into one or more derivative transactions to offset, in whole or in part, any derivative instrument or derivative transaction previously purchased, sold, or entered into, without regard to the quantitative limitations of this paragraph, provided that such derivative instrument or derivative transaction is an exact offset, in whole or in part, to the original derivative instrument or derivative transaction being offset.

(2) An insurer may enter into the following types of income generation transactions if, at the time of acquisition after giving effect to the transactions the aggregate statement value of the fixed income assets that are subject to call or that generate the cash flows for payments under the caps or floors, plus the face value of fixed income securities underlying a derivative instrument subject to call, plus the amount of the purchase obligations under the puts, does not exceed 10 percent of its admitted assets:

(A) Sales of covered call options on noncallable fixed income securities, callable fixed income securities if the option expires by its terms before the end of the noncallable period or derivative instruments based on fixed income securities.

(B) Sales of covered call options on equity securities, if the insurer holds in its portfolio or can immediately acquire through the exercise of options, warrants, or conversion rights already owned the equity securities subject to call during the complete term of the call option sold.

(C) Sales of covered puts on investments that the insurer is permitted to acquire under this section, if the insurer has escrowed, or entered into a custodian agreement segregating, cash or cash equivalents with a market value equal to the amount of its purchase obligations under the put during the complete term of the put option sold.

(D) Sales of covered caps or floors, if the insurer holds in its portfolio the investments generating the cash flow to make the required payments under the caps or floors during the complete term that the cap or floor is outstanding.

(3) An insurer may enter into replication transactions if both of the following apply:

(A) The insurer would otherwise be authorized to invest its funds under this section in the asset being replicated.

(B) The asset being replicated is subject to all the provisions of this section relating to the making of investments by the insurer in that type of asset as if the transaction constituted a direct investment by the insurer in the replicated asset.

(4) The commissioner may approve of additional transactions involving the use of derivative instruments in excess of the limits of this paragraph or for other risk management purposes, except that replication transactions under this subparagraph shall be permitted only for risk management purposes.

(m) Each derivative instrument shall be one of the following:

(1) Traded on or entered into with a qualified exchange.

(2) Entered into with or guaranteed by a business entity.

(3) Issued or written with the issuer of the underlying interest on which the derivative instrument is based.

(4) Traded on or entered into with a qualified foreign exchange.

(n) For the purposes of subparagraphs I(l) and (m), unless the context otherwise requires:

(1) "Business entity" includes a sole proprietorship, corporation, limited liability company, association, bank, partnership, joint stock company, joint venture, mutual fund, trust, joint tenancy, or other similar form of business organization, whether organized for-profit or not-for-profit.

(2) "Cap" means an agreement obligating the seller to make payments to the buyer, with each payment based on the amount by which a reference price or level or the performance or value of one or more underlying interests exceeds a predetermined number, sometimes called the strike rate or strike price.

(3) "Collar" means an agreement, or series of agreements to receive payments as the buyer of an option, cap or floor and to make payments as the seller of a different option, cap, or floor.

(4) "Derivative instrument" means an agreement, option, or instrument, or a series or combination that:

(A) Either requires a party to make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests, or to make a cash settlement in lieu thereof, or has a price, performance, value, or cash flow based primarily on the actual or expected price, level, performance, value, or cash flow of one or more underlying interests.

(B) Includes options, warrants used in a hedging transaction and not attached to another financial instrument, caps, floors, collars, swaps, forwards, futures, and any other agreements, options, or instruments substantially similar thereto or any series or combination thereof and any agreements, options, or instruments permitted under rules adopted to carry out the provisions of subparagraphs I(l) and (m).

(C) Does not include an investment authorized by RSA 402:28, I(a) through (k), RSA 402:28, I(o) through (p), RSA 402:28, I(r) through (s), or RSA 402:28, II through IV.

(5) "Derivative transaction" means a transaction involving the use of one or more derivative instruments.

(6) "Floor" means an agreement obligating the seller to make payments to the buyer in which each payment is based on the amount by which a predetermined number exceeds a reference price, level, performance, or value of one or more underlying interests.

(7) "Forward" means an agreement, other than a future, to make or take delivery of, or effect a cash settlement based on the actual or expected price, level, performance, or value of, one or more underlying interests, but shall not mean or include spot transactions effected within customary settlement periods, when-issued purchases, or other similar cash market transactions.

(8) "Future" means an agreement, traded on a qualified exchange or qualified foreign exchange, to make or take delivery of, or effect a cash settlement based on the actual or expected price, level, performance, or value of, one or more underlying interests.

(9) "Hedging transaction" means a derivative transaction that is entered into and maintained to reduce either:

(A) The risk of a change in the value, yield, price, cash flow, or quantity of assets or liabilities that the insurer has acquired or incurred or anticipates acquiring or incurring either directly or indirectly through an investment in an underlying entity.

(B) The currency exchange rate risk or the degree of exposure as to assets or liabilities that an insurer has acquired or incurred or anticipates acquiring or incurring either directly or indirectly through an investment in an underlying entity.

(10) "Income generation transaction" means a derivative transaction involving the writing of covered call options, covered put options, covered caps, or covered floors that is intended to generate income or enhance return.

(11) "Option" means an agreement giving the buyer the right to buy or receive, referred to as a "call option", to sell or deliver, referred to as a "put option", to enter into, extend, or terminate, or to effect a cash settlement based on the actual or expected price, spread, level, performance, or value of one or more underlying interests.

(12) "Qualified exchange" means:

(A) A securities exchange registered as a national securities exchange, or a securities market regulated under the Securities Exchange Act of 1934, as amended.

(B) A board of trade, commodities exchange, or clearing organization designated as a contract market or derivatives clearing organization by the Commodity Futures Trading Commission or any successor thereof.

(C) Private offerings, resales, and trading through automated linkages.

(D) A designated offshore securities market as defined in securities exchange commission regulations, 17 C.F.R. part 230, as amended.

(E) A qualified foreign exchange.

(13) "Qualified foreign exchange" means a foreign exchange, board of trade, or contract market located outside the United States or its territories or possessions if one of the following applies:

(A) The exchange, board of trade, or contract market has received regulatory comparability relief under Commodity Futures Trading Commission rule 30.10, as set forth in 17 C.F.R. part 30, appendix C.

(B) The exchange, board of trade, or contract market is, or its members are, subject to the jurisdiction of a foreign futures authority that has received regulatory comparability relief under Commodity Futures Trading Commission rule 30.10, as set forth in 17 C.F.R. part 30,

appendix C as to futures transactions in the jurisdiction where the exchange, board of trade, or contract market is located.

(C) Foreign stock index futures contracts are listed on the exchange, board of trade, or contract market and the contracts are the subject of no-action relief issued by the Commodity Futures Trading Commission office of general counsel if the exchange, board of trade, or contract market that qualifies as a qualified foreign exchange under this subdivision is a qualified foreign exchange only as to foreign stock index futures contracts that are the subject of no-action relief.

(14) "Replication transaction":

(A) Means a derivative transaction that is intended to replicate the performance of one or more assets that an insurer is authorized to acquire under this section.

(B) Does not include a derivative transaction that is entered into as a hedging transaction.

(15) “Spot transaction” means a transaction that settles via an actual delivery of the underlying asset within the standard settlement period for such asset.

(16) "Swap" means an agreement to exchange or to net payments at one or more times based on the actual or expected price, level, performance, or value of one or more underlying interests.

(17) "Underlying interest" means the assets, liabilities, other interests or a combination thereof underlying a derivative instrument, including any securities, currencies, rates, indices, commodities, or derivative instruments.

(18) "Warrant" means an instrument that gives the holder the right to purchase an underlying financial instrument at a given price and time or at a series of prices and times outlined in the warrant agreement. Warrants may be issued alone or in connection with the sale of other securities, including as part of a merger or recapitalization agreement or to facilitate divestiture of the securities of another business entity.

2 Effective Date. Part II of this act shall take effect upon its passage.

PART III

Relative to self-service storage insurance.

1 New Chapter; Self-Service Storage Insurance. Amend RSA by inserting after chapter 402-N the following new chapter:

CHAPTER 402-O

SELF-SERVICE STORAGE INSURANCE

402-O:1 Definitions. In this chapter:

I. "Commissioner" means the insurance commissioner.

II. "Location" means any physical location in the state of New Hampshire.

III. "Owner" means a business entity that is the owner, lessor, or sublessor of a self-service storage facility, the owner's agent, or any other person authorized by the owner to manage the facility, or to receive rent from a renter. The owner may be a resident or non-resident of this state.

IV. "Personal property" means movable property not affixed to land.

V. "Rental agreement" means any written agreement that establishes or modifies the terms, conditions, or rules concerning the use and occupancy of a rented space at a self-service storage facility.

VI. "Renter" means a person, or any agent or representative of the person, entitled to the use of rented space at a self-service storage facility under a rental agreement to the exclusion of others.

VII. "Self-service storage facility" means any real property designed and used for the purpose of renting or leasing individual storage space in which the renters themselves customarily store and remove their own personal property on a self-service basis. A self-service storage facility is not a warehouse as the term "warehouse" is used in RSA 382-A:7-102.

VIII. "Self-service storage insurance" means personal property insurance offered in connection with and incidental to the rental of a rented space at a self-service storage facility and which provides coverage to renters for the loss of or damage to personal property occurring at the facility or when the property is in transit to or from the facility during the period of the rental agreement.

IX. "Supervising entity" means a business entity that is a licensed admitted insurer or insurance producer licensed under RSA 402-J that is appointed or authorized by an insurer to supervise the administration of a self-service storage insurance program.

402-O:2 Licensure of Owners.

I. An owner shall hold a limited lines license to sell or offer coverage for self-service storage insurance at any location in this state. An owner is not required to hold a license solely to display and make available to renters and prospective renters brochures and other promotional materials created by or on behalf of an authorized insurer or surplus lines insurer.

II. A limited lines license issued under this chapter shall authorize the owner and the employees and authorized representatives of the owner to sell and offer coverage for self-service storage insurance to renters at each location at which the owner conducts business.

III. The supervising entity shall maintain a registry of each location at which the owner sells or offers self-service storage insurance in this state.

IV. Notwithstanding any other provision of law, a license issued pursuant to this chapter shall authorize the licensee and its employees and authorized representatives to engage in those activities that are permitted in this chapter.

V. Owners, and their employees and authorized representatives, are exempt from all examination and education requirements under RSA 402-J in regard to self-service storage insurance.

402-O:3 Marketing Requirements for Sale of Self-Service Storage Insurance.

I. An owner shall not offer or sell insurance under this section unless:

(a) The owner provides to the renter written notice that:

(1) Summarizes the material terms of insurance coverage offered to renters, including the identity of the insurer, premium amount, benefits, exclusions, and conditions.

(2) Discloses that the policies offered by the owner may provide a duplication of coverage already provided by a renter's homeowner's insurance policy, residential renter's insurance policy, vehicle insurance policy, watercraft insurance policy, or other source of property insurance coverage and that no liability coverage is provided by the insurance coverage. This disclosure shall be displayed prominently in 12-point type or capital letters and shall read as follows:

Your renters' or homeowners' policy may provide the insurance you need. Check with your insurance agent to determine if your personal property stored at a location other than your home or business is covered.

(3) States that if insurance is required as a condition of rental, the requirement may be satisfied by the renter purchasing the insurance described in this section or by presenting evidence of other applicable insurance coverage.

(4) Describes the process for filing a claim.

(b) All costs related to the insurance are stated in writing.

(c) Evidence of coverage in a form developed by the insurer or supervising entity is provided to every renter who purchases the coverage.

(d) The insurance is provided by an insurer authorized to transact the applicable kinds of insurance in this state.

II. Self-service storage insurance may be offered on a month-to-month or other periodic basis under an individual policy or a group or master commercial policy coverage with limits not exceeding $10,000 in aggregate. All self-service storage insurance policy forms, endorsements, and other contract language shall be submitted pursuant to RSA 412:5, II. RSA 412:5, VI shall not apply to self-service storage insurance regardless of the type of insurance.

402-O:4 Authority of Owners.

I. The employees and authorized representatives of owners may sell and offer self-service storage insurance to renters and shall not be subject to licensure as an insurance producer under this chapter provided that:

(a) The owner obtains a limited lines license to authorize its employees and authorized representatives to sell and offer self-service storage insurance pursuant to this chapter.

(b) The insurer issuing the self-service storage insurance either directly supervises or appoints a supervising entity to supervise the administration of the program, including development of a training program for employees and authorized representatives of the owners. The training required by this section shall comply with the following:

(1) The training shall be delivered to the employees and authorized representatives who are directly engaged in the activity of selling and offering self-service storage insurance.

(2) The training may be provided in electronic form. However, if conducted in electronic form the supervising entity shall implement a supplemental education program regarding the self-service storage insurance that is conducted and overseen by a licensed producer.

(3) Each employee and authorized representative who is directly engaged in the activity of selling and offering self-service storage insurance shall receive basic instruction about the self-service storage insurance offered to renters and the disclosures required under RSA 402-O:3.

(4) The training program shall be submitted to the commissioner for approval.

(c) No employee or authorized representative of an owner shall advertise, represent, or otherwise hold himself or herself out as a non-limited lines licensed insurance producer, unless otherwise licensed.

II. The charges for self-service storage insurance coverage may be billed and collected by the owner and its employees and authorized representatives. Owners billing and collecting such charges shall not be required to maintain such funds in a segregated account provided that the owner is authorized by the insurer or supervising entity to hold such funds in an alternative manner and remits such amounts to the insurer or supervising entity within 60 days of receipt. All premiums received by an owner from a renter for the sale of self-service storage insurance shall be considered funds held by the owner in a fiduciary capacity for the benefit of the insurer. An owner may receive compensation for billing and collection services.

402-O:5 Application for License.

I. A sworn application for a license under this chapter shall be made to and filed with the commissioner on forms prescribed and furnished by the commissioner. The applicant may be a resident or non-resident of this state.

II. The application shall provide:

(a) The name, residence address, and other information required by the commissioner for an authorized representative of the owner or supervising entity that is designated by the applicant as the person responsible for the owner's compliance with the requirements of this chapter. However, if the owner derives more than 50 percent of its revenue from the sale of self-service storage insurance the information noted above shall be provided for all officers, directors, and

shareholder of record having beneficial ownership of 10 percent or more of any class of securities registered under the federal securities law; and

(b) The location of the owner's home office.

III. Any owner engaging in self-service storage insurance transactions on or before the effective date of this chapter shall apply for licensure within 90 days of the application being made available by the commissioner. Any applicant commencing operations after the effective date of this chapter shall obtain a license prior to offering self-service storage insurance.

IV. Initial licenses issued pursuant to this chapter shall expire on the second May 31 from the date of issue. Renewed licenses shall be effective for 2 years, expiring on May 31.

V. Each owner licensed under this chapter shall pay a fee as determined by the commissioner provided that the fee shall not exceed $500 for an initial self-service storage insurance license and $250 for each license renewal. However, for an owner who sells self-service storage insurance at 10 or fewer locations in the state the fee shall not exceed $150 for an initial license and for each renewal of a license.

VI. A self-service storage insurance license which lapses may, within 24 months from the due date of the renewal, be reinstated with a penalty in the amount of double the unpaid renewal fee for any renewal received after the due date pursuant to paragraph IV.

2 Effective Date. Part III of this act shall take effect January 1, 2022.

PART IV

Relative to Medicare supplemental insurance.

1 New Section; Medicare Supplemental Insurance; Premiums. Amend RSA 415-F by inserting after section 8 the following new section:

415-F:9 Premiums. Upon a Medicare eligible disabled member attaining the age of 65, no issuer shall continue to charge that member the under age 65 premium.

2 Effective Date. Part IV of this act shall take effect January 1, 2022.

LBA
21-0389
Amended 3/29/21

SB 124-FN- FISCAL NOTE

AS AMENDED BY THE SENATE (AMENDMENTs #2021-0857s and #2021-1000s)

AN ACT adopting omnibus legislation relative to insurance.

PART I Relative to travel insurance

This part will have no fiscal impact.

PART II Relative to domestic insurance company investments.

This part will have no fiscal impact.

PART III Relative to self-service storage insurance

FISCAL IMPACT: [X] State [ ] County [ ] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2021**	**FY 2022**	**FY 2023**	**FY 2024**
Appropriation	$0	$0	$0	$0
Revenue	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	$0	$0	$0	$0
Funding Source:	[ ] General [ ] Education [ ] Highway [X] Other - License Fee Revenue			

METHODOLOGY:

This section of the bill establishes procedures for self-storage insurance. The Insurance Department indicates this bill would permit owners of self-storage facilities to sell property insurance to their renters. The Department expects there would be a small, but indeterminable, increase in licensing fees collected by the Department. The Department assumes that, while there would be additional responsibilities for employees at the Insurance Department, there would not be a measurable increase in expenditures.

AGENCIES CONTACTED:

Insurance Department

PART IV Relative to Medicare supplemental insurance.

FISCAL IMPACT: [X] State [ ] County [ ] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2021**	**FY 2022**	**FY 2023**	**FY 2024**
Appropriation	$0	$0	$0	$0
Revenue	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	$0	$0	$0	$0
Funding Source:	[ ] General [ ] Education [ ] Highway [X] Other - License Fee Revenue			

METHODOLOGY:

The Insurance Department indicates this part of the bill prohibits a disabled member people over age 65 from being charged the under age 65 premium. The State collects premium tax on Medicare Supplement insurance policies. In general, the Department assumes effected individuals will realize a premium decrease and further assumes that issuers will not adjust rates due to this impact, as the impact is on a relatively small number of insureds. Hence, the impact on premium tax revenue might be an insignificant reduction.

AGENCIES CONTACTED:

Insurance Department