

SB 124-FN - AS INTRODUCED

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.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

In the Year of Our Lord Two Thousand Twenty One

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

29 IV. “Cancellation fee waiver” means a contractual agreement between a supplier of travel
30 services and its customer to waive some or all of the non-refundable cancellation fee provisions of the

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1 supplier's underlying travel contract with or without regard to the reason for the cancellation or
2 form of reimbursement. A cancellation fee waiver is not insurance.

3 V. "Commissioner" means the insurance commissioner.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 VIII. "Fulfillment materials" means documentation sent to the purchaser of a travel
13 protection plan confirming the purchase and providing the travel protection plan's coverage and
14 assistance details.

15 IX. "Group travel insurance" means travel insurance issued to any eligible group.

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

- 17 (a) Licensed managing general underwriter;
18 (b) Licensed managing general agent or third party administrator;
19 (c) Licensed insurance producer, including a limited lines producer; or
20 (d) Travel administrator.

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

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

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

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

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

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

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

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

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

- 16 (1) Interruption or cancellation of a trip or event;
- 17 (2) Loss of baggage or personal effects;
- 18 (3) Damages to accommodations or rental vehicles;
- 19 (4) Sickness, accident, disability, or death occurring during travel;
- 20 (5) Emergency evacuation;
- 21 (6) Repatriation of remains; or
- 22 (7) Any other contractual obligations to indemnify or pay a specified amount to the
23 traveler upon determinable contingencies related to travel as approved by the commissioner.

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

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

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

33 402-L:3 Requirements.

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

1 limited lines travel insurance producer or travel retailer unless properly licensed or registered,
2 respectively.

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

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

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

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

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

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

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

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

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

32 (5) The limited lines travel insurance producer requires each employee and
33 authorized representative of the travel retailer whose duties include offering and disseminating
34 travel insurance to receive a program of instruction or training, which may be subject to review by
35 the commissioner. The training material shall, at a minimum, contain instructions on the types of
36 insurance offered, ethical sales practices, and required disclosures to prospective customers.

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

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

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

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

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

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

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

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

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

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

25 402-L:4 Registration; Policy.

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

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

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

1 402-L:5 Enforcement.

2 I. The limited lines travel insurance producer and any travel retailer offering and
3 disseminating travel insurance on behalf of the limited license travel insurance producer and under
4 the limited lines travel insurance producers license shall be subject to RSA 417:4, VIII(e), RSA
5 402:J:12, and RSA 402-J:15.

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

8 402-L:6 Travel Protection Plans. Travel protection plans may be offered for one price for the
9 combined features that the travel protection plan offers in this state if:

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

14 II. The fulfillment materials:

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

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

19 402-L:7 Sales Practices.

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

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

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

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

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

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1 certificate for a full refund of the travel protection plan price from the date of purchase of a travel
2 protection plan until at least:

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

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

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

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

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

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

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

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

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

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

29 402-L:8 Travel Administrators.

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

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

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

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

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

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

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.

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

17 Relative to domestic insurance company investments.

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

(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.

(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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (12) "Qualified exchange" means:

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

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

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

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

25 (E) A qualified foreign exchange.

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

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

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

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(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 or any Internet website, call center site, or similar location directed to residents of the state of New Hampshire.

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

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

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

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

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

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

20 IX. "Supervising entity" means a business entity that is a licensed insurer or insurance
21 producer that is appointed or authorized by an insurer to supervise the administration of a self-
22 service storage insurance program.

23 402-O:2 Licensure of Owners.

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

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

31 III. The supervising entity shall maintain a registry of each location at which the owner
32 sells or offers self-service storage insurance in this state. Upon request by the commissioner and
33 within 10 working days notice to the supervising entity, the registry shall be open to inspection and
34 examination by the commissioner during regular business hours of the supervising entity.

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

1 V. Owners, and their employees and authorized representatives, are exempt from all
2 examination and education requirements.

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

4 I. At every location where self-service storage insurance is offered to renters, brochures or
5 other written or electronic materials shall be made available to renters which:

6 (a) Disclose that self-service storage insurance may provide a duplication of coverage
7 already provided by a renter's homeowner's insurance policy, residential renter's insurance policy,
8 motor vehicle insurance policy, or other source of coverage.

9 (b) State that the enrollment by the renter in the self-service storage insurance program
10 offered by the owner is not required in order to rent a rented space at the self-service storage facility.

11 (c) Provide the actual terms of the self-service storage insurance coverage, or summarize
12 the material terms of the insurance coverage, including:

13 (1) The identity of the insurer;

14 (2) The identity of the supervising entity;

15 (3) The amount of any applicable deductible and how it is to be paid;

16 (4) Benefits of the coverage; and

17 (5) Key terms and conditions of the coverage.

18 (d) Provide a toll-free number for the supervising entity or the insurer and a summary of
19 the process for filing a claim.

20 (e) State that a renter that purchases self-service storage insurance coverage may cancel
21 such coverage at any time and the person paying the premium shall receive a refund of any
22 applicable unearned premium.

23 II. Self-service storage insurance may be offered on a month-to-month or other periodic basis
24 under an individual policy or a group or master commercial inland marine policy.

25 III. A certificate, endorsement, brochure, or other evidence, whether written or electronic,
26 setting forth the terms and conditions of the self-service storage insurance coverage shall be
27 provided to each renter that purchases self-service storage insurance.

28 402-O:4 Authority of Owners.

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

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

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

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

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

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

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

13 II. The charges for self-service storage insurance coverage may be billed and collected by the
14 owner and its employees and authorized representatives. Any charge to the renter for coverage that
15 is not included in the cost associated with the rental of rented space shall be separately itemized on
16 the renter's bill. If the self-service storage insurance coverage is included with the rental of rented
17 space, the owner shall clearly and conspicuously disclose to the renter, on the rental invoice or
18 elsewhere, that the self-service storage insurance coverage is included with the rental of rented
19 space. Owners billing and collecting such charges shall not be required to maintain such funds in a
20 segregated account provided that the owner is authorized by the insurer or supervising entity to hold
21 such funds in an alternative manner and remits such amounts to the insurer or supervising entity
22 within 60 days of receipt. All premiums received by an owner from a renter for the sale of self-
23 service storage insurance shall be considered funds held by the owner in a fiduciary capacity for the
24 benefit of the insurer. An owner may receive compensation for billing and collection services.

25 402-O:5 Suspension or Revocation of License. If an owner or its employee or authorized
26 representative violates any provision of this chapter, the commissioner may:

27 I. After notice and hearing, impose fines not to exceed \$500 per violation or \$5,000 in the
28 aggregate for such conduct.

29 II. After notice and hearing, impose other penalties that the commissioner deems necessary
30 and reasonable to carry out the purpose of this article, including:

31 (a) Suspending the privilege of transacting self-service storage insurance pursuant to
32 this section at specific business locations where violations have occurred; and

33 (b) Suspending or revoking the ability of individual employees or authorized
34 representatives to act under the license.

35 402-O:6 Application for License.

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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 \$100 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.

402-O:7 Consumer Protection. Failure to comply with this chapter shall constitute an unfair insurance trade practice under RSA 417:4.

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

PART IV

Relative to Medicare supplemental insurance.

1 New Sections; Medicare Supplemental Insurance; Premiums; Change in Coverage. Amend RSA 415-F by inserting after section 8 the following new sections:

415-F:9 Premiums. The issuer is prohibited from charging a Medicare eligible disabled member a premium greater than the over age 65 premium, once the disabled covered member is aged 65.

415-F:10 Change in Coverage. An issuer shall make available to each covered member the opportunity to purchase any Medicare supplement policy offered by the issuer, without medical

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1 underwriting, during the birth month of the member. This requirement shall exist regardless of
2 whether the alternative policy has comparable or lesser benefits. The issuer shall notify the member
3 at least 90 days prior to the opportunity to make a potential change in coverage. The effective date
4 of the change in coverage shall be less than 60 days from the date the issuer receives notification
5 that the member has selected alternative coverage.

6 2 Effective Date. Part IV of this act shall take effect January 1, 2022.

**SB 124-FN- FISCAL NOTE
AS INTRODUCED**

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: ☒ State ☐ County ☐ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	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:	<input type="checkbox"/> General Fee Revenue <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - License			

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 bill would allow the facility to include the insurance premium in the monthly rental fee for the storage unit. 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: ☒ State ☐ County ☐ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	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:	<input type="checkbox"/> General Fee Revenue <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - License			

METHODOLOGY:

The Insurance Department indicates this part of the bill prohibits people over age 65 from being charged a higher rate for their Medicare Supplement coverage than the rate charged for people eligible for Medicare due to their age. 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.

The section also creates a modified open enrollment period for all insureds who have Medicare Supplement insurance. This guaranteed issue right is limited to individuals with insurance and is restricted to the Medicare Supplement offered by that insurer. This ability to change coverage creates anti-selection risk. The risk is that insureds do not have the incentive to buy the coverage they need for the entire coverage period, and instead can buy lessor coverage and buy up when and if their needs change. The Department assumes carriers will respond to this requirement in two ways. First, the Department assumes premium rates will increase to adjust for this increased risk and/or that there will be upward pressure on claims, especially for the richer plans. Second, the Department assumes there will be a consolidation in plan offerings. It will be too risky for a carrier to be the only one offering a richer plan. These assumptions have offsetting impacts on the premium tax revenue base. The impact on the premium tax base is expected to be insignificant, as Medicare Supplement is a small piece of the tax base.

AGENCIES CONTACTED:

Insurance Department