

Legislative History for Connecticut Act

SB 865	PA 250	1967
House 2633		(1)
Senate 1189		(1)
Insurance 59-69		(1)
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CONNECTICUT
GEN ASSEMBLY
HOUSE

PROCEEDINGS

1957

VOLUME 12

PART 6

2704-2718

Monday, May 22, 1967

This is now amended to sending notice of process after filing with the Secretary of State, to the main executive office of the home of the foreign corporation in another state.

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MR. SPEAKER:

Will you remark further on the bill? If not, the question is on acceptance and passage in concurrence with the senate. All those in favor will say aye. Opposed? The bill is passed.

THE CLERK:

Calendar No. 692. Substitute for S.B. No. 865. An Act concerning Suspension of Insurance Agent's, Broker's or Excess Line Broker's Licenses. Favorable Report Committee on Insurance. (File No. 505).

REP. LAROSA - 4th.

I move the acceptance of the J.C. favorable report and passage of the bill in concurrence with the senate.

MR. SPEAKER:

Question is on acceptance and passage in concurrence with the senate. Will you remark?

REP. LAROSA - 4th.

This is an Act concerning suspension of Insurance Agent's, Broker's or Excess Line Broker's Licenses. What this does is that it would allow, it would make it mandatory that when premiums are not renitted to the Company, after they have been accepted by the agent, that this would be reported to the Insurance Commissioner. The reason for this is, to prevent shortages that have occured through agents through the past. I move the adoption of this bill.

MR. SPEAKER:

Will you remark further? If not, the question is on acceptance and passage in concurrencw with the senate. All those in favor will say aye. Opposed? The bill is passed.

THE CLERK:

Calendar No. 693. S.B. No. 884. An Act concerning the Duties of the Connecticut Research Commission. Favorable report

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only other amendment is on page 3 of the bill commencing on about line 12 which provides limitations on 5 to 10% of the State's Authority to loan money depending on whether the involves small business administration or economic development Act. Basically a technical housekeeping bill.

THE CHAIR:

Question is on the acceptance of the Committee's favorable report and passage of the bill. All those in favor signify by saying, "aye". Contrary minded. The ayes have it and the bill is passed.

SENATOR BUCKLEY:

Mr. President, may Cal. No. 616 File 419 Be held retaining its place on the Calendar.

Cal. No. 424 File 505 Substitute For Senate Bill No. 865. An Act concerning Suspension of Insurance Agent's Broker's or Excess Line Broker's Licenses.

SENATOR PICCOLO:

Very briefly, Mr. President, I move for acceptance of the Committee's favorable report and passage of the bill. This bill will help in certain areas. There are certain towns or Insurance Agents seem to have fallen behind payment which is detrimental to the public. This bill will make insurance companies to report to the Insurance Department within 30 days, if that agent or broker is in arrears, at that time the Insurance Division shall make an investigation and then determine whatever action deems it appropriate.

THE CHAIR:

Question is on the acceptance of the Committee's favorable report and passage of the bill. All those in favor signify by saying, "aye". Contrary minded. The ayes have and the bill is passed.

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program and are actively out soliciting life insurance and accident and health insurance. It is our feeling that those individuals engaged in such a solicitation should demonstrate a knowledge of their product at least equal to that of the normal insurance agent.

Our Department, in the past few years, has received many complaints concerning the activities of fraternal agents in the solicitation of policies.

Quite frequently the complaint indicates that the idea of fraternalism is secondary to the sale of the insurance policies; and on several occasions, people have informed us that they had no idea that when they purchased this insurance that they were also joining a fraternal organization. This, of course, in our opinion, is a direct change about from the original concept of fraternal insurance where the insurance was simply an incidental benefit received when you joined a fraternal organization. The emphasis, at least on the part of some fraternalists today, seems to be to sell insurance to members of the general public and have the membership in the fraternal to be incidental to the sale of the insurance.

We sincerely believe that legislation of this type is definitely in the public interest, and urge your committee to give favorable consideration to this act.

Chrm. Piccolo: Are there any questions from any members of the committee? Anyone else who would like to be heard on this bill? Anyone who would like to be heard in opposition? Seeing none, that will conclude the hearing on S.B. 863.

S.B. 865 - AN ACT CONCERNING SUSPENSION OF INSURANCE AGENT'S,
BROKER'S OR EXCESS LINE BROKER'S LICENSES.
(Senator Piccolo, 10th District)

Mr. Wholley: I am just hoping that my voice holds out. I have a real good cold and I'm balancing a cough drop on my tongue. Again, Gerard Wholley representing the Connecticut Insurance Department on S.B. 865. This bill introduced at the request of the Connecticut Insurance Department would establish procedures for the suspension or revocation of licenses involving licensees involved in the failure to pay their balances when they become due with companies,

Basically, we are concerned in the situation where insureds have paid to the agent, broker, or other type of licensee and that licensee has failed to transmit the premium to the insurance company.

Section 1 of the bill provides that all insurance companies will report to the Insurance Department any failure on the part of the licensees to remit moneys when they become due. It states that this information will be furnished to the Department 30 days following the due date of the account.

Of course, agents throughout the State have varying due dates; some are on a 45 day reporting; some are on a 60 day reporting and others might be on a 90 day reporting basis. The 30 days would follow the contractual reporting date which exists between the company and the licensee.

Section 2 of the bill indicates that any licensee that fails to transmit moneys paid to him directly or indirectly by insureds to the proper company, etc., will have his license suspended until such time as the problem has been cleared up.

Section 3 of the bill provided the Insurance Commissioner with the authority to adopt reasonable regulations concerning the procedure for continuing or terminating agencies involved in this situation.

Under Section 3, we are obviously striving at a committee type of procedure where the company involved in the agency would be requested by the Department to have their representatives continue while the suspension was in force those portions of the portfolio which belong to their company.

We have been discussing this particular bill for a considerable period of time, not only with insurance companies but also with the various agents' associations. We believe we are common understanding with all persons concerned with one particular exception.

It has been suggested by both the agents' groups and the companies that prior to the automatic suspension of the agent's license that the Department conduct an investigation, establish a prima facie case, and then proceed under the provisions of Section 38-74 of the General Statutes that particular Section as the Section outlining the procedure for suspension or revocation of a license and calls for a hearing prior to suspension or revocation.

We are perfectly willing to adopt this particular objection into the language of this bill, and request the committee to take no specific action in the immediate future on this bill but allow the Department to submit a substitute bill which will include the language we have just been discussing.

However, it is felt that the problems involved in this case can be discussed now and eliminate the necessity for any additional hearing or discussion when the substitute bill is submitted. It is our intention, of course, before submitting the substitute bill to be certain that both the agents' groups and the companies have an opportunity to review it and eliminate any particular question or objection at that time.

It is probably unfortunate that this type of legislation has to be requested, but situations have arisen where our citizens have become seriously hurt because of the inability of some licensees to properly manage their financial affairs. In no way does the Insurance Department intend or desire to act as a collection agency for any insurance company. That is not our problem, and very frankly, we are of the opinion that if the company enforced their contracts with their producers to the letter of the contract this problem wouldn't exist as it does today. But the problem does exist, and what happens and what we must concern ourselves with is the end result or maybe the by-product of this problem and that is the insureds who all of a sudden find themselves without coverage or find themselves receiving cancellation notices from various insurance companies because of failure to pay premiums, or they may find that they are being switched from one company to another company, and many times into a company with whom they have no desire to do business.

We have had instances, and they seem to be growing worse as time goes on, that the shortages run well in the area of \$100,000. We have had higher than that, we have had less than that, but generally speaking, when a shortage problem arises we do not find it to be much less than \$40,000 which obviously can involve quite a number of insureds.

Those of you on the committee that are agents are probably well aware of situations involving agency shortage and the problems that it can create for the insureds. For those who might desire a more revealing picture of this situation, we would be most pleased to sit down with the committee and demonstrate by actual cases the seriousness of this situation of agency shortages.

We have not come lightly before your committee requesting the passage of this bill, but it is the result of considerable soul searching, and we recognize that it is going to impose additional burdens and duties upon the Department but in all sincerity we respectfully urge in the public interest that this bill or the substitute bill previously mentioned, be given favorable consideration.

Chrm. Piccolo: Mr. Wholley, may I ask a question? I know some agents are bonded under the policy of the companies, is there any regulation requiring all the agents to be bonded?

Mr. Wholley: No, sir, there is no bonding requirement in the statute and, frankly, I would hate to see such a requirement put in the statute. My comparison would be to the bond requirement in the real estate licensing laws which in many instances when shortages develop there prove to be inadequate and pose a burden upon probably thousands of real estate agents that never conduct their affairs improperly. True, some companies do when they appoint an agent bond him, but that is their own requirement.

Rep. Vicino (34th District): Mr. Wholley, what you are asking us to do is to approve a bill to do the job that some of the companies should be doing right now, is that correct?

Mr. Wholley: Yes, sir.

Rep. Vicino: What are the companies positions? What excuses do they have for not doing their job? Just because they are concerned about that extra premium?

Mr. Wholley: I think you probably hit the nail on the head. They might have \$15,000, \$20,000 or \$30,000 hanging out there somewhere and they pay along with the thing hoping to get their money. We have seen that situation, and this particular company starts putting the squeeze on the agent and he begins to rob Peter to pay Paul to get a squeaking deal oiled and get them out of his hair, and in the meantime he has sunk two others.

Rep. Vicino: If the Insurance Department cancelled these licenses or the license of an individual company would you think that the other companies would automatically pull out of that agency feeling that it is a very unstable situation?

Mr. Wholley: That is their judgment, whether they would or would not, I don't know. But what we would do if an agency had four companies in an agency and one of them screamed that there were shortages and it developed that the shortages were proper shortages in contemplation with the act that these monies had been paid by insured and not properly transmitted through we would have that agency run on a committee basis with a representative from the four companies involved until this shortage problem has been cleared up or a voluntary agreement has been made. The committee arrangement while not exercised too greatly in the State of Connecticut on the occasions that it has been exercised on a so-called voluntary basis has worked quite well.

Rep. LaRosa (4th District): Mr. Wholley, do you feel that if the companies upon submitting a statement to the agency adhere to the contract between the company and the agency whereas that indebtedness would have to be taken care of within the specified period of time they themselves did not carry it out any longer, do you think that there would be a need for this bill?

Mr. Wholley: Let me go back to my original statement that if the companies enforced the contracts one hundred percent, the due dates of the contracts, etc., I don't think the problem would exist at all today. What we have found is that a particular company having a deficiency on its hands will go into the agency and suspend that agent; they will tell him all right no new business, no more renewals until this matter is taken care of. Now an agent is not going to sit there and take that situation lightly. He may have the next month 150 renewals coming up so he will start placing them in another company or start grouping them with another agent somewhere and the condition continues to spiral and get worse and worse. When we finally hear about it, it is such a hopeless mess that it is almost impossible to entangle it. We want to hear about these situations in the beginning. We are not concerned with an accounts receivable situation where the insured has not paid the agent - we are not concerned with that situation. There are proper remedies there - cancellation of the policy or whatever it might be. We are concerned where the insured has paid the agent and he has not properly paid the companies, or he has used that money for some other purpose. This comes to our attention finally in the form of a complaint from the citizen.

Rep. T. Stevens (Milford): It appears that this bill would effectively police this particular abuse but what concerns me is would there be any protection to the insured as to any abuses by the insurance agent during the thirty day grace period. You could perhaps suspend his license but what about the person whose premium disappears during that period?

Mr. Wholley: Well, obviously, any person who could establish the fact that they had paid this premium, they are fully protected because the law of both insurance agents and insurance brokers clearly spells out that payment to an agent or payment to a broker, where policies have been issued, is equivalent to a payment to the company but if you get in on the ground floor of this thing we have a very small problem to straighten out. If we get in three or four or five months later - now, there is a particular instance here in Hartford and we find out that he was delinquent fifteen months with the company;

and now it is coming to our attention. That is a long ways to go back and try to unravel who paid and who didn't pay, etc.

Rep. Stevens: But the coverage is always there?

Mr. Wholley: If you can establish that they have paid the premium but sometimes that is almost impossible. Some people don't keep their canceled checks and some people don't keep their receipts and we have had companies tell us that they won't recognize a cancelled check because it might not be \$107.23, it might be \$150.00 which would be payment on this policy and another payment on the other policy, etc., and the inability to clearly and concisely establish that this payment was for that policy presents a problem.

Rep. LaRosa: Mr. Wholley, You have said that upon investigation you found an agent who was fifteen months in arrears.

Mr. Wholley: That was not upon our investigation. This was finally reported when he was thirteen months in arrears.

Rep. LaRosa: Well, don't you think that this was the fault of the company allowing him to go thirteen months. Therefore if the company enforced their own rules and regulations do you still feel that there would be a need for this bill?

Mr. Wholley: No, sir. If the companies enforced those contracts to the letter of the contract there would be no need.

Rep. LaRosa: Why should the State of Connecticut do the job for the insurance company?

Mr. Wholley: Well, I think it is pointed out in there that it is not our intent or desire to be a collection agency. We must be concerned with the problems of these insureds. They are completely confused and bewildered when they come to us and to them we direct our attention. We have no intention or desire or anything else to do this job for the insurance company. In fact, we occasionally have an insurance man come in to us and tell us a long sad story how this particular agent owed them \$18,000. or whatever it might be and how far back it is and I can sit there with a grin from ear to ear about this problem. But very shortly that turns into tears when that agent's customers come in and start showing cancellation notices or the fact that they have been in an accident and they find they don't have the coverage that they should have, etc. To them we are being forced to direct our attention. They are entitled, I think, to that type of protection.

Sen. Ives: Are you going to include in the substitute bill any penalty for the insurance company not reporting. I don't see any penalty in this bill.

Mr. Wholley: That is something that we toyed with considerably and we have researched the question to some degree as to the cooperativeness of the companies in complying with this act. It has been suggested, and it sounded kind of good to me at the moment, although it is not in there, that we put a penalty of \$1,000. a day fine against any company that failed to report within the provisions. I frankly would prefer to see it go through without it and see what the compliance is. If this compliance is now problem and we ran into a situation of no compliance then maybe we could come back two years from now and put a penalty in the act.

Sen. Ives: Do you have any general penalty under the Insurance Practice?

Mr. Wholley: Yes, there is a general penalty and, if my memory is right, it's \$500. for violation of any provision of Title 38 where a specific penalty is not listed.

Rep. LaRoas: Mr. Wholley, would it be easier if a penalty was imposed on the insurance company whereas they allowed this situation to exist for a number of months. By that I mean, assuming that an account is payable within sixty days and they have, we'll say, an additional ten days, if this account is not paid within the seventy day period wouldn't it be easier whereas the company assuming the obligation to either suspend the agent whereas the insurance would be protected and the Insurance Department would not be acting as a police agency for the insurance company? If that was done, there would not be any instances where one account would have not paid his obligation to the company for six months, nine months, twelve months, or whatever the case may be. Put is directly as the responsibility of the insurance company whereas they would have the responsibility of suspending that agency and if they did not do so then they would be faced with some form of action.

Mr. Wholley: Well, let's say that they did that they suspended - let's say I'm the agent and I am representing four companies in my agency and I have not paid this particular company "A" so "A" comes in to me and suspends me as their agent, no new business or renewal. I am not going to lose that business that I had there, I am going to put it in the other three companies. Now, company "A" can't stop me from doing that.

Rep. LaRosa: Mr. Wholley, that argument seems very practical but according to the experience I don't think it is that easy because some of these insureds would have had accidents and have claims under the present policies where they were acceptable to that company but unacceptable to another company and it is an almost unsurmountable job to transfer \$50,000. or \$60,000. of premiums from one company to another and I think if this suspension would have occurred by the company to the agency I think at that time the agency would make arrangements with the company to discharge their obligation and continue doing business. It takes a little more time to transfer a business.

Mr. Wholley: You may be perfectly right in what you say. I can't dispute it. I have to give it some considerable thought to come to a conclusions on it, but the ingenuity of some of the agents involved in these things would fascinate anybody to see how they become involved in it. A situation again in Hartford where this agent was at this particular time some six or seven months delinquent and the company was really putting the screws to him so he made arrangements to pay them off in full because he went into their home office and presented them with a check which took care of the situation beautifully. I think they had something of a celebration over it at the home office. Every one was shaking each others hands and everything was rosy again. Everything was fine until two days later when the check bounced. These tactics you run into and the agents do become involved in this but let me say that they are a very very small percentage of the agents licensed in the state. They will resort to almost anything to keep the boat from sinking and it is not too difficult to switch over to another company. From a practical standpoint, the problems are almost unsurmountable. I just want to repeat again that we have given this a tremendous amount of thought; we have considered various alternative procedures that would solve the problem. One alternative is the commingling laws similar to laws of other states. Now, that imposes upon every agent duties, responsibilities and additional work, etc. We don't think it is necessary to impose these restrictions on roughly 17,000 agents. We are only concerned with that very small percentage that have demonstrated their inability to handle their own financial matters. Now, maybe there are other ways of solving this problem but after our research and thinking on it we kind of like the idea that we ventilate out here. We think it will work and those that we have discussed it with have come to the same conclusion.

Rep. LaRosa: In the last year or two, how many agencies have had this shortage problem? I don't mean the exact figure, just an idea out of 17,000 agents that are presently licensed?

Mr. Wholley: Maybe twenty agencies.

Rep. LaRosa: In the past couple of years?

Mr. Wholley: That's what I say, it is a very small percentage to put a commingling burden on all the others but when these go they really go like a Roman Candle.

Rep. Salamone (84th District): There is one part of the bill that I would like a little clarification on. At the bottom part of page 2 it says "or they may find that they are being switched from company to company, and many times into a company with whom they have no desire to do business." Is the Department suggesting that if an agent switches the insured from one company to another that they notify the insured of the switch in companies?

Mr. Wholley: I think most agents do as a matter of course. I know my own agent switched me once on a homeowner's policy from one company to another. He told me was doing it and I won't go into the reasons why at the moment, but I think, and others here maybe can clarify that a little more, that most agents do inform them but we have had some bitter screaming when people say they had been loyal to a company and had been insured by them for seven, eight or nine years and now I'm getting a renewal policy from some other company. I want to stay with the other one - the first one. Of course you have no contract guarantee that they are going to treat you any better than someone else just insured with them for the first time but our observation has been that if you have been twenty years with this particular company they are going to take care of you.

Rep. Salamone: I realize that. It appears to me that if this bill were passed an agent would be compelled to notify the insured of any change.

Mr. Wholley: You're not quoting from the legislation, you are quoting from my general statement. That is not in the bill at all.

Rep. Salamone: That is not in the bill. Thank you. That is all I wanted to know. Just one brief comment, Mr. Wholley, we've talked about the citizen's rights which is the primary right that we are trying to protect, and you stated the fact that when these occasions arise that the fact of proving that a bill has been paid on a particular policy, has your Department given any thought to insertion in the bill that a sixty or ninety day period that the insurance companies will be forced to waive the contestability of payment on proof of any payment to the agent. This, to me, would seem to help the citizen

because to put a fine on the insurance company, who could possibly afford a \$1,000. or \$1,500. fine which ever might be set, but we would like to think that in this thirteen month case if a waiver of contestability upon proof of any payment to an agent this would perhaps be of more benefit to the insured rather than penalizing the insurance company.

Mr. Wholley: I agree with what you say completely and it is certainly a unique concept and it might provide tremendous impetus to the companies to enforce the agent's contract right down the line. On a problem we are currently handling, this is a whole group of people in an association and we are wrestling currently with this thing to determine whether or not these various individuals have paid their premium and you want to see the pieces of paper they bring in to show that they paid; they have been in someone's pocket for two months and you can just about decipher them. This is really a unique concept and I wouldn't mind thinking that one over.

Chrm. Piccolo: Are there any other questions? Are there any other speakers?

Mr. Matthews: Chairman, members of the committee, my name is James R. Matthews, representing the Connecticut Association of Independent Insurance Agents. We wholeheartedly support the purpose and intent of this bill. Our association which strives to uplift the standards of property and casualty insurance agents in this State continues to be distressed by agents who defraud the public, even though they may be small in number, or go broke because they have not conducted their agencies in a business-like manner. If this legislation will help the situation in any way, we are certainly in support of it even though it may need some refinement. We will submit a more detailed statement later on.

Chrm. Piccolo: Anyone else who would like to be heard on this bill?

Mr. Coughlin: William Coughlin, Jr, Independent Mutual Insurance Agents. After considerable discussion among our members, and among the directors of our association, we are going to support this bill, or I should say the substitute bill which Mr. Wholley has referred to, which answers the objections for the most part that we did receive from some individual members of our association; mainly that this type of legislation as it presently stands in S.B. 865 could perhaps be used but with this amendment maybe there would be an investigation conducted by the Insurance Department before the suspension of the individual's license, our association voted this past Monday to support this bill.

Chrm. Piccolo: Anyone who would like to be heard in opposition to this bill?

Rep. Oliver: How long would the time be between the time the non-payment is reported to your Department and the time of the investigatory hearing?

Mr. Wholley: It would be my intention upon receiving a report from a company to immediately assign it to an Examiner in my division, send him right out and start checking this thing out. If we establish a prima facie case, we would schedule the hearings to be held within ten days.

Chrm. Piccolo: Seeing none, that will conclude the hearing on S.B. 865.

S.B. 866 - AN ACT CONCERNING THE FINANCIAL ADVERTISEMENTS OF INSURANCE COMPANIES. (Senator Piccolo, 10th District):

Mr. Kelly: Chairman, members of the committee, Peter Kelly employed by the Insurance Department of the State of Connecticut and representing the Insurance Department, I am speaking in favor of S.B. 866, an act concerning the financial advertisements of insurance companies. Section 38-57 of the General Statutes now requires that when an insurance company makes a public announcement or advertisement on its financial condition it must show both its assets and liabilities as computed on the basis allowed for in its annual statement as filed with the Insurance Department.

Last year, it was brought to our attention that the existing Statute does not prevent a company from releasing its operating results before filing such results with the Insurance Department. In many cases, the operating results of an insurance company are of equal interest to the public, and in a case where the company is operating at a loss, the operating results are of far more significance than a simple statement of assets and liabilities.

This Bill will require that whenever any public announcement is made concerning the assets and liabilities of a company that the summary of the operating results also be disclosed at the same time.

One further point, when we say operating results we are speaking basically of a profit and loss statement, what appears in the annual statement on page four, commonly called the summary of operations.

Rep. Vicino: To clarify this point of operating results, would you mean underwriting profit or investment profit?

Mr. Kelly: It would be the combination of let's say the net gain or loss from operations which would take into considera-