

Legislative History for Connecticut Act

SB 54	(PA 90-87)	1990
Senate	837-838, 839-840	(4p)
House	3904-3909	(6p)
Insurance & Real Estate	2, 5-9, 107-109	(8p)

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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1990

VOL. 33
PART 3
605-948

WEDNESDAY
April 11, 1990

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THE CLERK:

Calendar page 21, MATTERS RETURNED FROM COMMITTEE,
Calendar #51, File #44, Substitute SB54, AN ACT
CONCERNING SURPLUS LINES INSURANCE. Favorable Report
of the Committee on FINANCE, REVENUE AND BONDING.

THE CHAIR:

Senator Powers.

SENATOR POWERS:

Thank you, Mr. President. I move acceptance of the
Joint Committee's Favorable Report and passage of the
bill.

THE CHAIR:

You may proceed.

SENATOR POWERS:

Thank you, Mr. President. This bill proposes five
changes suggested by the Insurance Department on the
subject of surplus lines insurance and transactions.
And it would call for a collection of premium taxes
quarterly, the creation of an exportable list, which
would go, we believe, a long ways towards reducing the
oftentimes burdensome affidavit requirements, an
extension of the filing requirement for affidavits from
30-45 days, also the creation of a uniform renewal date
for all licenses, all licensees, and last is the
licensing of non-resident excess line brokers.

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As I mentioned, Mr. President, this is a bill that was requested by the Insurance Department. I think it goes a long ways towards solving some of the problems that existed in the past, and I would urge its adoption.

THE CHAIR:

Will you remark further? Further remarks.

SENATOR POWERS:

If there is no objection, I would ask that this be placed on the Consent Calendar.

THE CHAIR:

Without objection, so ordered. Clerk, please call the next item. Clerk is going to call the second Consent Calendar of the day. Clerk, please make an announcement for immediate roll call.

CLERK:

Immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber. Immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

Clerk, please proceed with the items to be voted on in the second Consent Calendar.

THE CLERK:

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Second Consent Calendar begins on Calendar page 5, Calendar #116, Substitute HB5419. Calendar #124, Substitute HB5140. Calendar page 6, Calendar #127, Substitute SB274. Calendar #128, Substitute SB374. Calendar page 7; Calendar #135, SB416. Calendar #136, Substitute SB329.

Calendar page 8, Calendar #142, Substitute SB116. Calendar page 9, Calendar #146, Substitute SB403. Calendar #148, Substitute SB404. Calendar page 10, Calendar #155, Substitute SB438. Calendar page 15, Calendar #188, Substitute HB5726. Calendar page 16, Calendar #196, HB5064. Calendar #197, HB5889.

Calendar page 19, Calendar #211, HB5566. And Calendar page 21, Calendar #51, Substitute SB54. That completes the second Consent Calendar, Mr. President.

THE CHAIR:

Are there any omissions, corrections or deletions to the Consent Calendar? The machine is open. Please cast your vote.

Senator DiBella. Has everyone voted? The machine is closed. Clerk, please tally the vote. The results of the vote for the second Consent Calendar for the day.

The result of the vote:

36 Yea

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0 Nay

The Consent Calendar is adopted.

Senator O'Leary, I believe we have Senate Agenda #3 before us?

SENATOR O'LEARY:

Mr. President, I move that all items on Senate Agenda #3, dated April 11, 1990, be acted upon as indicated and that the Agenda be incorporated by reference into the Senate Journal and the Senate Transcript.

THE CHAIR:

Without objection, so ordered.

SENATE AGENDA #3

1. SENATE BILLS FAVORABLY REPORTED - to be tabled for the Calendar and Printing

Finance, Revenue and Bonding

Substitute SB462 AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE COMMISSION TO STUDY THE MANAGEMENT OF STATE GOVERNMENT WITH RESPECT TO THE DEPARTMENT OF MOTOR VEHICLES.

Judiciary

Substitute SB384 AN ACT INCORPORATING THE PERSONAL PROPERTY INSURANCE COMPANY.

Judiciary

Substitute SB387 AN ACT INCORPORATING THE NEW

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GEN. ASSEMBLY
HOUSE

PROCEEDINGS
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PART 12
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House of Representatives

Saturday, April 21, 1990

SPEAKER BALDUCCI:

Have all the members voted and is their vote properly recorded? If so, the machine will be locked. The Clerk take a tally.

The Clerk please announce the tally.

CLERK:

House Bill 5866 as amended by House Amendment Schedule "A" and Senate Amendment "A" in concurrence with the Senate.

Total number voting	135
Necessary for passage	68
Those voting yea	135
Those voting nay	0
Those absent and not voting	16

SPEAKER BALDUCCI:

The bill as amended is passed.

CLERK:

Calendar 345 on Page 5, Substitute for Senate Bill 54, AN ACT CONCERNING SURPLUS LINES INSURANCE.

Favorable Report of the Committee on Finance, Revenue and Bonding.

SPEAKER BALDUCCI:

Representative Biafore of the 125th.

REP. BIAFORE: (125th)

Mr. Speaker, I move for acceptance of the Joint

House of Representatives

Saturday, April 21, 1990

Committee's Favorable Report and passage of the bill in concurrence with the Senate.

SPEAKER BALDUCCI:

The question is on passage. Will you remark?

REP. BIAFORE: (125th)

Yes; Mr. Speaker, what the bill would allow is the insurance commissioner to issue a non-resident excess line broker's license to out-of-state individual or firm who wants to engage in excess line insurance in Connecticut.

It also would change from the collecting of the funds from twice a year to quarterly collections, so in this one time, there would be a fifth quarter, or approximately \$700,000 increase in funding to the State.

It would also regulate that the insurance license broker's license which now expires every two years on the date of issuance, they would all expire at the same time, making it a little easier for the Commissioner to issue licenses.

I move for adoption of the bill.

SPEAKER BALDUCCI:

The question is on passage. Will you remark? Will you remark further on the bill?

Representative Jaekle.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. Mr. Speaker, I guess the biggest problem I have with the bill is revealed in the fiscal note on the file. Frankly, I suppose I wouldn't normally go, have much trouble going to some sort of a quarterly reporting, but I do note that for the next fiscal year, we will actually be bringing in five quarterly installments of revenue.

Where as if it was a pure, going to a quarterly payment method we'd only be bringing in four. That happens to be an additional \$700,000 of what I have to categorize as one-shot revenues, going into next year's budget.

I guess the mechanics of it were that in the next fiscal year we'll still get a six month payment and then three quarterly payments. That's pretty creative, but of course, you get to do that once.

The following year it just becomes the normal four quarterly installments. So this is an example of bringing one-shot revenue into next year's budget to try to balance. That will not recur. And to the extent the budget relies on this \$700,000 of revenue, when we come back less than a year from now, there will be a \$700,000 hole.

I suppose, compared to the hole that's really going

to be there, this may seem minimal. It is \$700,000, however and for those that are very concerned about what we're doing this year as it will impact our State the following year, certainly on the budgetary process, \$700,000 is not an insignificant amount of money.

I guess I always wonder, and I guess in this fiscal year I seriously doubt, that this is being done for some, I don't know, some recommendation from an accountant that quarterly is easier to pay, or cash, but it seems to me that the primary motivation for that change is to do just as I said, bring in five quarterly installments of revenue rather than four. That is the reason for that change as opposed to accountancy standards and what have you.

As such, maybe one of the early examples of the floor this session, but what I know from the budget as it's at least proposed, is going to be a pattern we will be seeing to a much larger extent before we adjourn of use of one-shot revenues to balance next year's budget. Relying on non-recurring sources of revenue next year, to, I guess just get by election and it's going to be somebody else's problem after that.

I will be voting against it as an example of fiscal gimmickry that we are relying on this year that we're going to have to pay the piper for next year.

SPEAKER BALDUCCI:

Will you remark further on the bill? Will you remark further? If not, staff and guests to the well. Members please be seated. The machine will be opened.

CLERK:

The House of Representatives is now voting by roll.
Members please report to the Chamber. The House of Representatives is taking a roll call vote. Members to the Chamber, please.

SPEAKER BALDUCCI:

Have all the members voted and is their vote properly recorded? If everyone has voted the machine will be locked. The Clerk take a tally.

REP. FRANKEL: (121st)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Frankel.

REP. FRANKEL: (121st)

In the affirmative, please.

SPEAKER BALDUCCI:

Representative Frankel in the affirmative.

Representative Schlesinger of the 114th.

REP. SCHLESINGER: (114th)

In the negative, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Schlesinger in the negative.

The Clerk please announce the tally.

CLERK:

	<u>Senate Bill 54</u> in concurrence with the Senate.	
	Total number voting	135
	Necessary for passage	66
A	Those voting yea	78
C	Those voting nay	57
RE	Those absent and not voting	16

SPEAKER BALDUCCI:

The bill is passed.

Are there announcements or points of personal privilege? Representative Belden of the 113th.

REP. BELDEN: (113th)

Thank you, Mr. Speaker. I'm very honored to have today, some visitors in the House who come from my district in Shelton. I'd like to introduce to the Chamber, Richard and Kristin Watson and their daughter Carrier. I'm sure if they'll stand, the Chamber will give them our usual warm welcome. (Applause)

SPEAKER BALDUCCI:

Other announcements or points? If not, Representative Bertinuson of the 57th.

REP. BERTINUSON: (57th)

Thank you, Mr. Speaker. At this time I'd like to

JOINT
STANDING
COMMITTEE
HEARINGS

INSURANCE
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February 16⁷⁵, 1990
1:00 P.M.

PRESIDING CHAIRMEN: Senator Powers
Representative Biafore

COMMITTEE MEMBERS PRESENT:

SENATORS: Hampton

REPRESENTATIVES: Biafore, Prague, O'Neill,
Chase

SENATOR POWERS: (Tape begins here) -- to actually be able to see the speaker or just to be able to stay in Room 1D and probably be a little bit more comfortable than many of you are now. We apologize for that, but you've got only yourselves to blame for coming.

But seriously, we're delighted to have this many people who are obviously interested in what we hope are a variety of the bills that the Insurance and Real Estate Committee will be hearing this afternoon.

We'll begin the agency heads and legislators. The first person to speak is Commissioner Kelly, the Insurance Department. Commissioner Kelly. As Commissioner Kelly is approaching, I would just remind the legislators who are in attendance if you have any questions, please remember to push your buttons and for those in the audience, some of you who have not experienced a hearing in the past, you may see legislators getting up and walking in and out periodically. Please excuse us for that. It's a necessity because at times many of us have conflicts but rest assured that the Committee members are dedicated and will certainly be spending as much time here as they possibly can. Commissioner Kelly.

COMM. KELLY: Good afternoon, and thank you Mr. Chairman, and members of the Committee. I will be testifying orally today on two Insurance Department bills that we've asked you to raise, SB72, AN ACT REVISING TITLE 38 OF THE GENERAL STATUTES CONCERNING INSURANCE, and SB54, AN ACT CONCERNING SURPLUS LINES INSURANCE.

the requirements and mandates in group health insurance. This should avoid the current hunt and peck method of finding requirements for health insurance. These examples are indicative of the goal which the Insurance Department has attempted to achieve. The goal produced in a body of law which is comprehensible to insurance companies, lawyers, legislators and individual insurance consumers.

While the bill is somewhat difficult to follow, the Insurance Department, with the help of the Law Revision Commission has provided you with two additional versions. The first indicates how it will look, including deletions and additions and the second attempts to display the new title 38A if you pass the bill. We would request that you give favorable consideration to our recodification effort.

The second bill is SB54, AN ACT CONCERNING SURPLUS LINES INSURANCE. This is an Insurance Department bill which seeks to create more efficient regulation of the surplus line insurance transactions and the collection of premium taxes. You may recall we had a bill before you last year which you reported out and in the confusion got lost in the Finance Committee in the days of adjournment last year.

This bill proposes five changes. One, collection of premium taxes quarterly. Two, creates an exportable list which will reduce burdensome affidavit requirements. Three, it has an extension of the filing requirement for affidavits still required to be filed from 30 days to 45 days and it creates, number four, a uniform renewal date for all licensees. And five, it permits the licensing of non-resident excess line brokers.

With respect to the first item, the collection of premium taxes quarterly, for fiscal year 1991 by having taxes paid quarterly, the State will realize a one-time collection of five quarters of taxes in four quarters. That would result in additional revenue of \$700,000.

Currently, excess line brokers collect and pay premium taxes twice a year and in some cases are permitted to hold taxes as much as nine months before they make payment to the State. Payment and collection of the premium taxes quarterly, will create a more consistent flow of the premium taxes to the State.

You may remember last year we requested that the surplus line companies pay the taxes to the quarterly and that caused a lot of confusion and opposition. We backed off a little bit and said, let's have the taxes come in from the brokers quarterly. The brokers have told us they don't have a problem with that.

The second is the creation of an exportable list, which indicates the type of insurance coverage which is not readily available. This will allow excess line brokers to procure such insurance without the necessity of filing an affidavit. An affidavit will be required for insurance that's not on that list. Right now, a retirement excess line policy is written, an affidavit must be produced and sent in to us. The policyowner must sign it and it's very, very cumbersome. A lot of paper work. We'd like to eliminate that.

Affidavits are currently required to be filed within thirty days and show the name of the risk, the name of the insurer and three insurers that decline to write the risk.

Since January 1st of this year, we have been enforcing the affidavit law. Five Connecticut excess line brokers have been fined. Three disciplinary actions in the process and 27 warning letters have been sent out concerning the lack of filing the affidavits within the statutory 30 days. This would reduce the number of affidavits that would be filed, and for those unusual lines, let's say a wind tunnel or something along those lines, it would not be on the list, they still would have to file an affidavit.

By creating a uniform licensing date for excess line brokers, the licensing division of our department can work more efficiently. Currently,

excess line brokers expire two years from the date they were issued, so if your license was issued on June 18, 1980, it expires June 18, 1982, 84, 86. So we're processing renewals, six and eight renewals every month. What we want to do is have a constant license that expires two years, and all the renewals will go out on one date.

With the creation of a non-resident excess line broker's license, current law prohibits the licensing of non-residents. It's the only license category which is limited to residents. All other license categories, people can be licensed non-residents.

Routinely, non-resident or out-of-state excess line brokers, while unlicensed, currently place insurance coverage on Connecticut risks for a variety of reasons, including expertise for a particular type of coverage, or a multi-state risk. As a result of their inability to obtain a non-resident license, the non-resident excess line broker has no ability or method to pay the taxes owed to the State for which they have collected.

After the 1989 Legislative Session, the Insurance Department established a policy which permitted an unlicensed, non-resident excess line broker to file legally required affidavits and premium taxes through a resident excess line broker. It's called an accommodation or courtesy filing. So if a New York broker wrote a Connecticut risk, he would send that to a Connecticut surplus line and then the Connecticut surplus line agent would send us the tax and the affidavits.

After the development of that policy, the Insurance Department developed a program to track down those out-of-state brokers and collect the taxes due. Since July 1, 1989, \$414,871 has been collected in premium taxes and an additional \$11,900 is in process of being collected from these non-resident excess line brokers. So we're talking almost a half a million dollars we know is out there that we've gotten.

That verified our suspicion that we raised last .

year, that there was a shortfall in the premium taxes being collected that wasn't being remitted to the State.

Allowing the accommodation or courtesy filings did not really solve the out-of-state problem. Some Connecticut brokers have refused to make accommodation or courtesy filings, thereby limiting the number who will. It has been reported to our department, that fees of \$1,000 have been charged out-of-state brokers by Connecticut excess line brokers for making these filings. These fees are unregulated and will probably rise as the department continues its effort to collect taxes from these out-of-state brokers.

In addition, out-of-state brokers are reluctant to provide this information to Connecticut excess line brokers for competitive reasons. By having to submit an affidavit to a Connecticut excess line broker, who in turn mails it to the Insurance Department, number one, it creates unnecessary delay and serves no useful purpose, other than generating a fee for the Connecticut license broker.

Creating a non-resident category for excess line brokers will provide the method of payment of taxes owed to the State. It will provide regulatory control over these people who are now doing the business and it will insure that coverage placed by these non-resident brokers will be placed only in companies on our white list.

There are currently 7 states which issue non-resident excess line brokers. I'm sure you'll be told that we're breaking new ground here. No other state does it. We'll be happy to give you the names of the 7 states. And then we have one correction on line 81, the word March should be bracketed and the word May, M-a-y. I think that means the month of May rather than may may.

We should point out one thing. When we did the recodification effort, we did all the licensing of all the different categories, so that in setting up the resident, non-resident license, we did include the non-resident license for surplus line brokers, so I bring that to your attention. It was an

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inadvertent goof. It's not something we're trying to slip by. We intended this bill to hit those five points, but it is a recodification effort, so if you decide not to go with our bill, we can pull that out of the recodification bill also. Thank you, Sir.

SEN. POWERS: Commissioner, thank you. Committee members, any questions at all? We'll let you off easy this time, Commissioner.

COMM. KELLY: Thank you.

SEN. POWERS: Thank you very much. The next speaker is Dr. Paul Dworkin followed by Don McConnell and Deputy Commissioner Pat Ambrogio.

DR. PAUL DWORIN: Thank you, Senator Powers, Representative Biafore and members of the Committee. I am Dr. Paul Dworkin. I'm a pediatrician and am speaking of head of the Division of General Pediatrics at the University of Connecticut Health Center, and also as Co-Chairman as the Government Liaison Committee of the Connecticut Chapter of the American Academy of Pediatrics. I'm a resident of Windsor, Connecticut, and most importantly, am the father of two young children.

I'm speaking in favor of Raised SB55 and SB58, AN ACT CONCERNING THE PROVISION OF PREVENTIVE PEDIATRIC CARE BENEFITS IN GROUP INSURANCE POLICIES and SB58, AN ACT CONCERNING COVERAGE FOR PREVENTIVE PEDIATRIC CARE FOR CERTAIN EMPLOYEES.

I'm also speaking in opposition to Raised SB62, AN ACT CONCERNING INSURANCE COVERAGE FOR INDIVIDUAL HEALTH CARE SERVICES.

My remarks will be brief. First, I would like to again, thank the Committee for its major efforts in supporting the passage during the last Legislative Session of PA89-101, AN ACT CONCERNING INSURANCE COVERAGE FOR PREVENTIVE PEDIATRIC CARE. Passage of this bill represented an important first step to improving the health of the children of our State. The bill mandates that all new and renewed group health policies must cover six well child visits in

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ATTY. RAPHAEL PODOLSKY: I offered a speculation that it would not. I'd be interested in seeing proof of that.

SEN. POWERS: Thank you.

ATTY. RAPHAEL PODOLSKY: Thank you.

REP. BIAFORE: Just an observation. It seems that today we've heard that mandates is what's driving up this cost. Blue Cross is 64%. Then we hear now, well if we take all the mandates off, we'll have a bare bone policy. It's only going to cut the cost 10%. I'm getting more confused.

It seems like one side is saying that mandates are, it should cut it \$640 not \$100 and yet the other side is saying no. You know, I think we need, again, the information. We keep hearing testimony about mandates cost this, that and that, but no one has every given to this committee any backup on anything, and I think that's what we need.

SEN. POWERS: Brian Anderson, Access Surplus Lines Association on SB54.

BRIAN ANDERSON: Good afternoon, Chairman Powers, Chairman Biafore and other folks. I am the lobbyist for the Connecticut Access and Surplus Lines Association. Our President, Scott Smith, was supposed to be here, but was unable to make it, so I'm reading a statement for him.

It is the position of the Association that while we generally - I'm testifying on SB54, AN ACT CONCERNING SURPLUS LINES: It is the position of the Association that while we generally support the body of SB54, we are unilaterally opposed to Section 1.

Section 1 would like license out of state access and surplus brokers as Connecticut access and surplus lines brokers. The overwhelming majority of state insurance departments do not license out of state access and surplus lines brokers.

As Commissioner Kelly said, there are seven states that do. None of these states are contiguous to or within hundreds of miles of Connecticut. Allowing out of state brokers to solicit for business in our state puts Connecticut brokers at a competitive disadvantage. Brokers from New York, New Jersey and Massachusetts will be able to get Connecticut licenses, while Connecticut brokers will not be able to get licenses in these states.

We in Connecticut have a close relationship with the State Insurance Department. We support the Department's regulatory efforts both in writing and in spirit. Because we are quartered in the state, the Department has the power and the right to literally put us out of business if we violate the law.

An out of state broker would not be subject to the same degree of consequence. We believe that the Department's suggestion of this licensing as a means of collecting all the tax due in Connecticut on or as incurred in our state by out of state brokers.

The Department collected approximately \$500,000 last year by holding an amnesty for out of state brokers who had not paid a Connecticut tax in the last three years. However, we feel that the reason so little out of state tax was collected during the last three years was because the courtesy filing system was eliminated.

This system used by most states allowed for an out of state broker to pay his taxes through a filing made by a Connecticut broker. This system was eliminated in 1986 but reinstated by the Department either in July or October of 1989. Our association believes that the existing courtesy filing system allows for the collection of out of state taxes without creating an unfair business situation.

We appreciate the hard work and the effort the Insurance Department has put in crafting this bill. We appreciated Commissioner Kelly having taken the time to solicit our opinions and discuss this bill with us. With the exception of Section 1, we support the bill. End of statement.

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SEN. POWERS: Can you leave that statement with us, Brian?

BRIAN ANDERSON: Certainly. Thanks.

SEN. POWERS: Joe Coatsworth, Connecticut Hospital Association on HB5126.

JOSEPH COATSWORTH: Thank you, Mr. Chairman. My name is Joe Coatsworth, Vice President for Government Relations at the Connecticut Hospital Association.

I am here today to speak briefly in support of HB5126, AN ACT CONCERNING PRIVATE REVIEW AGENTS FOR HEALTH CARE UTILIZATION REVIEW. I would like to note parenthetically, Mr. Chairman, that it's a pleasure to be before the Insurance Committee today.

Ordinarily I'm before the Public Health Committee, and when you go before the Public Health Committee, the insurance industry says that the real cost of high increases in insurance premiums are, you guessed it; hospitals, and of course when I come to the Insurance Committee, I find out that it's mandates, so I'd rather hear the word mandates than hospitals, and perhaps we ought to compare some of the testimony from one committee to the other.

The subject that I'd like to address is a serious one. It's got to do with a private utilization review corporations, and their ability to deny medical services to patients, or to withhold payment for treatment that a patient and his or her doctor believe is necessary.

Essentially, this is a simple bill. I know that if you've read the bill, it seems somewhat extensive in detail. It is modeled on a Maryland statute now in existence, and the issue is very clear and very simply and very direct. The issue is, although only a physician can admit a person to a hospital, virtually anyone in our opinion can deny the admission, and by anyone, we mean anyone hired by a private utilization review corporation.