

Legislative History for Connecticut Act

HB 6859	PA 262	FAY	1991
House	3493, 4454-4460, 6327-6333		(15)
Senate	2651, 2728-2729		(3)
Insurance and Real Estate	50-60, 104, 110-111, 141-142, 182, 245, 260, 738		(18)

Stop.

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate  
and House of Representatives Proceedings

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CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
1991

VOL. 34

PART 9

3198-3568

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House of Representatives

Wednesday, April 24, 1991

REP. FRANKEL: (121st)

Mr. Speaker, it's been brought to our attention that litigation is pending concerning the subject of this bill and it's been suggested that it would be inappropriate to proceed at this time, so with that in mind, I would at this time move that this item be recommitted.

SPEAKER BALDUCCI:

The question is on recommitment. Is there objection?  
Seeing none, so ordered.

CLERK:

Page 7, Calendar 298, Substitute for House Bill 6859, AN ACT CONCERNING INSURER INVESTMENTS AND MANAGING GENERAL AGENTS. Favorable Report of the Committee on Insurance and Real Estate.

REP. FRANKEL: (121st)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Frankel.

REP. FRANKEL: (121st)

Mr. Speaker, I move this item be referred to the Committee on the Judiciary.

SPEAKER BALDUCCI:

The question is on referral. Is there objection?  
Seeing none, it is so ordered.

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PART 12

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House of Representatives

Wednesday, May 8, 1991

House Bill 6951, as amended by House Amendment  
Schedule "A".

Total Number Voting	134
Necessary for Passage	68
Those voting Yea	134
Those voting Nay	0
Those absent and not Voting	17

SPEAKER BALDUCCI:

The bill as amended is passed.

CLERK:

Page 19, Calendar 298, Substitute for House Bill  
6859, AN ACT CONCERNING INSURER INVESTMENTS AND  
MANAGING GENERAL AGENTS.

Favorable Report of the Committee on Judiciary.

REP. BIAFORE: (125th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Biafore of the 125th.

REP. BIAFORE: (125th)

Mr. Speaker, I move for acceptance of the Joint  
Committee's Favorable Report and passage of the bill.

SPEAKER BALDUCCI:

The question is on passage. Will you remark?

REP. BIAFORE: (125th)

Yes, Mr. Speaker. This is a bill which was

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CLERK:

LC05824, House "A", offered by Representative  
Belden, et al.

In line 285 and 287, delete "company" and insert in lieu thereof "domestic insurer"

SPEAKER BALDUCCI:

Representative Belden.

REP. BELDEN: (113th)

Mr. Speaker, I move adoption.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark?

REP. BELDEN: (113th)

Very quickly, Mr. Speaker. This just clarifies the particular language there to delineate what "company" means. It's the domestic insurer.

SPEAKER BALDUCCI:

Will you remark further on the adoption of House "A"? If not, all those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed nay.

The ayes have it.

The amendment is adopted and ruled technical.

Will you remark further on the bill as amended? If

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not --.

REP. SMOKO: (91st)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Smoko of the 91st.

REP. SMOKO: (91st)

Thank you, Mr. Speaker, very much. Mr. Speaker, through you, a question to the gentleman bringing out the bill.

SPEAKER BALDUCCI:

Proceed.

REP. SMOKO: (91st)

Representative Biafore, this bill is rather unique, in my estimation, because it really puts in statute essentially the types of contracts that already exist between insurance companies and managing general agents of all sorts.

I was a little concerned that this is going to supercede in a number of ways those types of contracts that already exist.

For example, I've never heard in my experience here where we are giving the commissioner the authorization to require surety for somebody other than a state agency. This is giving the commissioner the authority to provide bonding to protect the insurer in place at

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that point.

A number of other items in here would tend to supercede a contract. At least that's what I feel here, but through you a question. Would this indeed take precedence over any existing contract that currently exists between the managing general agent and a company that they may have been representing for many years in the marketplace, through you?

SPEAKER BALDUCCI:

Representative Biafore.

REP. BIAFORE: (125th)

I don't have the answer to that question, through you, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Smoko.

REP. SMOKO: (91st)

I'm sorry, sir, I didn't hear the gentleman's response.

REP. BIAFORE: (125th)

I said I truly don't have the answer to that question.

REP. SMOKO: (91st)

Mr. Speaker, I think it's relatively important that we have an answer to that type of question. It would appear that we are changing the entire landscape of

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these types of company agency relationships. Frankly, I would like to know what contract would be in effect because all of these are strict contractual relationships between an insurance company and those types of agencies in the marketplace.

It would appear that we're taking a model contract, something that would be the pinnacle of what a company would want in their relationships and requiring it in statute and I frankly have always felt that a contract of representation such as this one should be negotiated between a company and an individual that might want to represent that company.

So I guess I'm very uncomfortable voting for this bill, through you, Mr. Speaker, to Representative Biafore, without knowing what the contractual relationship would be and what the supercedence would be on this type of instance.

If the contract itself that already exists takes precedence, then I have no problem with the bill, I guess, but if this is going to change in the middle of the stream a contractual arrangement that already exists in the marketplace, then frankly I do have a problem with it and I apologize for bringing it up at this late hour, but I was wondering maybe if we could maybe pass the bill just to see what's going on on the

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thing.

SPEAKER BALDUCCI:

Will you remark further? Representative Pelto of the 54th.

REP. PELTO: (54th)

Thank you, Mr. Speaker. In that there's a question on this bill, I'd ask that this item be passed temporarily.

SPEAKER BALDUCCI:

Is there objection? Seeing none, the item is passed temporarily.

CLERK:

Page 9, Calendar 498, House Resolution 28,  
RESOLUTION PROPOSING APPROVAL OF A SETTLEMENT OF EQUITY  
CLAIMS BETWEEN THE UNIVERSITY OF CONNECTICUT AND THE  
AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS (AAUP).

Favorable Report of the House Committee on  
Appropriations.

REP. ADAMO: (116th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Adamo of the 116th.

REP. ADAMO: (116th)

Thank you, Mr. Speaker. Mr. Speaker, I would move for the adoption of the resolution proposing the

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REP. DYSON: (94th)

In the well of the House. Down front, you can't miss it. It can't be missed.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Are there further announcements or Points of Personal Privilege?

The Clerk please return to the Call of the Calendar.

CLERK:

Calendar 298, on Page 20, Substitute for House Bill 6859, AN ACT CONCERNING INSURER INVESTMENTS AND MANAGING GENERAL AGENTS. (As amended by House Amendment Schedule "A").

Favorable Report of the Committee on Judiciary.

House adopted House "A" on May 8th.

DEPUTY SPEAKER POLINSKY:

The distinguished Chairman of the Insurance Committee, Representative Biafore.

REP. BIAFORE: (125th)

Madam Chairman, I move for acceptance of the Joint Committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER POLINSKY:

The question is on acceptance and passage. Will you remark, sir?

REP. BIAFORE: (125th)

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Madam Speaker, we had debated this bill previous and we had passed House Amendment "A". In going over it, the Insurance Commissioner realized that he left a technical section out and because of that I'd like to call amendment LCO6649.

DEPUTY SPEAKER POLINSKY:

Will the Clerk please call LCO6649, which shall be designated House Amendment "B".

CLERK:

LCO6649, House "A", offered by Representative Biafore.

House Amendment Schedule "B", 6649, offered by Representative Biafore.

DEPUTY SPEAKER POLINSKY:

The gentleman has asked leave of the Chamber to summarize. Is there objection? Without objection, please proceed, Representative Biafore.

REP. BIAFORE: (125th)

Yes, this is truly a technical amendment. The Commissioner has asked that it be included, that provisions 1 through 9 includes -- will not be preempted by provisions of sections 106 of Title 1 of the second mortgage market.

I move for its adoption.

DEPUTY SPEAKER POLINSKY:

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The question is on adoption of House "A". Will you remark? Will you remark further? Representative Ward.

REP. WARD: (86th)

Thank you, Madam Speaker. I'm a little puzzled by it because I'm not quite sure how you do it, that you declare that you will not be preempted by federal law. Ordinarily, if federal law pre-empts, it does and --.

DEPUTY SPEAKER POLINSKY:

Excuse me, Representative Ward. (Gavel) I understand there are a lot of admirers who want pictures and autographs, neither of which causes any noise at all and if you wish to make conversation, then I suggest you take it out into the lobby. Of course, if the gentleman does not wish to go into the lobby, I'm not going to be the one who pushes him.

LAUGHTER

I would ask that you give your attention to Representative Ward. Please proceed, sir.

REP. WARD: (86th)

Thank you, Madam Speaker. Madam Speaker, I guess, through you, I'll simply ask a question, if I may, to Representative Biafore.

DEPUTY SPEAKER POLINSKY:

Please proceed, sir.

REP. WARD: (86th)

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Representative Biafore, how is it that we can state that under state statute we will not be preempted by the federal law because it's my understanding that ordinarily if they pre-empt us, they pre-empt us? We can't declare that we are superior to federal law, through you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Biafore.

REP. BIAFORE: (125th)

I believe what this does is just protects us as much as we can be protected and the Commissioner said that this line should be added to the bill and that's why we requested that it be added.

DEPUTY SPEAKER POLINSKY:

Representative Ward.

REP. WARD: (86th)

Madam Speaker, perhaps I should ask one further question, through you. Does the federal law specifically provide that a state may elect not to be covered by the federal law? Is that what this section does, if you know, through you, Madam Speaker?

DEPUTY SPEAKER POLINSKY:

Representative Biafore.

REP. BIAFORE: (125th)

I'm not really sure.

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DEPUTY SPEAKER POLINSKY:

Representative Ward.

REP. WARD: (86th)

I guess I'm just quite puzzled. I understand the Commissioner apparently suggested it. I'm not sure I can vote for something that says that we declare ourselves not preempted by federal law. I sort of wish we could. There's a whole bunch of the federal laws that tell us what we have to do and I'd love to pass a statute saying we don't have to do it. I just don't think it's that simple, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on adoption of House "B"? Will you remark further?

REP. KRAWIECKI: (78th)

Madam Speaker. I'll yield to the Majority Leader perhaps.

DEPUTY SPEAKER POLINSKY:

Representative Frankel.

REP. FRANKEL: (121st)

Madam Speaker, if I might, could I yield to the distinguished Chair of the Insurance Committee?

REP. KRAWIECKI: (78th)

Madam Speaker, since I have the floor, I'll be happy to yield to the Chairman of the Committee.

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REP. FRANKEL: (121st)

I beg your pardon.

DEPUTY SPEAKER POLINSKY:

Sometimes it's hard watching a pingpong game going on. Representative Biafore, do you accept the yield?

REP. BIAFORE: (125th)

Unfortunately, yes. I have no one else to yield to.

LAUGHTER

At this time I would like to withdraw House Amendment "B", pass the bill as is and our illustrious Senate upstairs can get this cleared through the Commissioner's Office and may sure we're doing it correct.

DEPUTY SPEAKER POLINSKY:

The motion is to withdraw House "B". Is there objection? Without objection, so ordered.

Representative Biafore.

REP. BIAFORE: (125th)

I just move for adoption of the bill.

DEPUTY SPEAKER POLINSKY:

The question is on adoption of the bill as amended. Will you remark further? Will you remark further? If not, if not, will all members please be seated. Staff and guests to the well of the House. The machine will

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be opened.

CLERK:

The House of Representatives is voting by roll call. Members please report to the Chamber. Members to the Chamber please. The House is voting by roll.

DEPUTY SPEAKER POLINSKY:

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

The Clerk will announce the tally.

CLERK:

House Bill 6859, as amended by House Amendment Schedule "A".

Total Number Voting	142
Necessary for Passage	72
Those voting Yea	142
Those voting Nay	0
Those absent and not Voting	9

DEPUTY SPEAKER POLINSKY:

The bill as amended is passed.

Short remark. The amendment didn't show up there, but from a previous session we had adopted a House "A".

The Clerk please continue with the Call of the Calendar.

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On Page 10, Calendar 544 is marked Go. On Page 11, Calendar 546 is Go. 548 is Go. 549 is Go. Calendar 550, Substitute HB6724 I move to the Consent Calendar.

THE CHAIR:

Is there any objection in placing Calendar 550, Substitute HB6724 on the Consent Calendar? Is there any objection? Hearing none, so ordered.

SENATOR O'LEARY:

On Page 12, Calendar 552 is Go. Calendar 553, Substitute HB6946 I move to the Consent Calendar.

THE CHAIR:

Is there any objection in moving Calendar 553, Substitute HB6946 to the Consent Calendar? Any objection? Hearing none, so ordered.

SENATOR O'LEARY:

Calendar 554, I have already indicated is the second order of the day. Calendar 555, Substitute HB6859 I move to the Consent Calendar.

THE CHAIR:

Is there any objection in moving Senate Calendar 555, Substitute HB6859 to the Consent Calendar? Is there any objection? Hearing none, so ordered.

SENATOR O'LEARY:

Calendar 556, Substitute HB7251 I refer to the Committee on Environment.

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END SENATE AGENDA #2

THE CHAIR:

Mr. Clerk, it has been moved to do the Consent Calendar. Would you make the necessary announcement for a roll call vote.

THE CLERK:

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

THE CHAIR:

Thank you very much, Mr. Clerk. The issue before the Chamber is Consent Calendar #1 for today, Thursday, May 30, 1991. Mr. Clerk, would you please read the items that have been placed on the Consent Calendar.

THE CLERK:

The Consent Calendar begins on Calendar Page 11, Calendar 550, Substitute HB6724. Calendar Page 12, Calendar 553, Substitute HB6946. Calendar 554, Substitute of HB6859. Calendar Page 13, Calendar 558, HB5947. Calendar 559, Substitute HB6972. Madam President, that completes the Consent Calendar.

THE CHAIR:

Thank you very much, Mr. Clerk. You have heard

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the items on Consent Calendar #1 for 1991. You have heard the items placed on the Consent Calendar. The machine is on. You may record your votes. Senator Avallone. Senator Spellman. Senator Scarpetti. Senator Avallone. Do you wish to vote? Have all Senators voted that wish to vote? Have all Senators voted that wish to vote? The machine is closed.

The result of the vote.

35 Yea  
0 Nay  
1 Absent

The Consent Calendar is adopted.

Mr. Clerk.

THE CLERK:

Next item is on Calendar Page 18, Calendar 267, Substitute SB731, AN ACT CONCERNING THE CODE OF ETHICS FOR PUBLIC OFFICIALS AND LOBBYISTS. Favorable Report of the Committee on Appropriations. Clerk is in possession of three amendments.

THE CHAIR:

Thank you very much, Mr. Clerk. The Chair will recognize Senator Herbst.

SENATOR HERBST:

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

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1993 or 1994 is that the other states would refuse to accept financial statements certified to by the domestic regulator, myself in this particular case, and other states would say we are not going to accept any Connecticut regulatory oversight in lieu of our own, because the state has inadequate tools.

So, this is a very critical thing for us to build the laws that are required to meet minimum standards for certification. These two bills in great measure go along way towards finishing that process.

More important than that, there is an underlying substantive reason why these bills should be enacted. The first part of HB6859 deals with investment limitations imposed upon insurers domiciled in this state.

As I mentioned earlier, there are skeletal rules now applicable to life insurance companies and there are virtually no rules at all applicable with respect to the investment of property and casualty companies. And we have been indeed very fortunate up to this point that we haven't had any significant problems in light of the absence of those rules.

Of course many of our companies are large companies operating on a multi-state basis and operating in New York, and they have to, in great measure, then comply with some of the other rules and for some of the bigger companies this may not have as much significance, but for a company that is only licensed in Connecticut, this is absolutely crucial.

What it would do, first and foremost, and this is the centerpiece of this proposal, it would provide that domestic companies have to essentially adhere to a prudent investment rule which takes into consideration the nature of their business and the diversification needs that are associated with the type of business they are involved in. So that is the threshold of this particular proposal.

In addition, it sets forth a whole bunch of individual limitations that are not to be exceeded with certain exceptions based upon essentially the

financial strength of a company as determined at the immediate year end December 31 convention blank statement that is submitted with the department.

The Commissioner does have power to grant certain exemptions from these limitations, and there are several companies doing business with in Connecticut that would need fairly wholesale exemptions because the nature of their business is so different from the normal garden variety company that they could not comply with all the limitations that are contained in here. But it was much more important to address garden variety companies than to try to structure very very complex bills that would relate to companies that equate different and we aren't going to see very often, an example of which would be The Hartford Steam Boiler.

This also imposes on companies approval process with respect to all investments. It tries to identify and set forth accountability rules. It requires companies to adopt a conflict of interest policy. You will notice that particular section is not going to be in the investment chapter of the code because the conflict of interest policy has much more to do than just investments of the company. It has to do with any types of self dealings, so it would go somewhere else in the insurance code.

And finally on a general basis, foreign and alien insurers are required to comply in substance with this bill. This bill does not apply precisely and specifically all the subsections, but as many of the investments code that apply to the domiciliary companies, it always has a catch-all provision that says foreign companies must substantially comply with the law, and that would be the basis for determining initial entry and also for annual relicensing of a company.

Now the specific limitations of the investment proposal are that it puts on a limit of 10% of admitted assets that can be invested on a per obligor basis on any state and political subdivision which is not part of the general obligations of that state or political subdivision, and exempt certain federal agencies and international banks.

There is also an internal limitation of 5% of admitted assets can be invested in any single institution which excludes high yield obligations read junk bonds, and promissory notes other obligations with maturity of less than 1 year.

With respect to a very very popular subject these days, junk bonds and the limitations that we're proposing there, this provides a 1% limitation based upon admitted assets with respect to any single obligor and puts a 10% aggregate limitation on all things that would go into the category of junk bonds. It provides furthermore with significant regulatory authority to the Commissioner to adopt with respect to things that are not registered securities but which are not rated as investment grade by either a national rating agency or the NAIC, private obligations, private placements if you will, it provides the Insurance Commissioner to adopt significant further limitations with respect to those private non-investment grade obligations.

On the foreign side, because foreign investments have become much more important to financial institutions it allows 10% of admitted assets to be invested in any country that is an exempt country. Exempt countries are essentially the dozen or so very strong international companies. European common market, and companies of that nature.

With respect to non-exempt countries, it limits the perk company obligations to 2% of admitted assets, with a 15% aggregate limitation with respect to non-exempt companies. And then there is an overall 50% aggregate limitation with respect to both foreign obligations in exempt and non-exempt companies.

With respect to equity investments. There is a 5% admitted assets limitation on a single institution or single property with a 25% aggregate but it eliminates from the aggregate test only things that are categorized as preferred stock. When you are dealing with real estate, it imposes a 5% admitted asset single investment limitation, and by the way the real estate section deals with not only real estate but other tangible assets with a 15%

aggregate limit on non-income producing property and mortgages that exceed a certain threshold 75% loan ratio to value with respect to that individual property.

It also puts a limitation with respect to subsidiaries of 10% of admitted assets and any particular subsidiary with a 50% aggregate test with respect to subsidiaries but there is a special rule that if a subsidiary device is used for a purpose to otherwise circumvent one of the other limitations, the Insurance Commissioner can go behind that. This is designed to allow operational flexibility for subsidiaries not to be a guise or a curtain to hide investments behind, so as that provision as well.

The consequences of exceeding the limitations are that if the limitations are exceeded, assets are treated as non-admitted assets and there are internal limitations with respect to a 10% what we'd call an overall basket and no individual category could exceed more than double the limitation imposed upon that category and at any time that the non-admitted asset status exceeds 50% of the company's surplus, not admitted assets, most of these other tests now are driven off admitted assets.

Here in looking at a company, if the limitations are exceeded at any time so that the excess is more than double any one category or 50% of the surplus above minimum capital and surplus requirements, then the Insurance Commissioner can require reports from the company explaining why there are the deviations and require a divestiture and curtailment of conduct.

That is a very panoramic view of this legislation. Keep in mind even though there are all these internal limitations, the keystone of the bill is a prudent investment rule matching assets and liabilities, and that is the buzzword that we have and it gives significant regulatory authority to the Commissioner to do the job that is necessary in terms of investment.

One think I should point out, that the test with respect to any of the internal limitations is a test that is applied at the time the investment is made. It is not retested subsequently. Although the condition of the company at any given time with respect to a new investment will be looked at on that static type basis.

The second part of this link in this proposal to help us with respect to the NAIC certification and also to protect the public in Connecticut, has to do with limitations on what are tall managing general agents.

These are people who essentially given authority by an insurance company to negotiate and bind reinsurance contracts for a company or to manage all or part of an individual company's business, and you may have read in the newspapers and trade press how many companies have actually dealt with managing general agents given those managing general agents what is called their pen, the ability to write on behalf of the company business and there have been circumstances where the company wakes up a year, 2 years later and finds out that this managing general agent has written a tremendous block of business, risky business as it's turned out, that's never notified the company. The company was unaware that they were on risks that were out there.

This proposal would eliminate the potential for that type of abuse. It imposes licensing requirements with respect to managing general agents. It allows the Commissioner to require bonds and errors and omissions coverage and most importantly it requires a written contract to exist between the MGA and the company, and that written contract has certain minimum provisions that it must have in it such as monthly accounting in the remitting of funds, a safekeeping of funds, record keeping, preventing an assignment, underwriting guidelines, claim settlement procedures, and limitations on binding authority. And it provides for an examination by the Commissioner and the adoption of regulations with respect to direct oversight of the managing general agent, not just the company.

These two bills will go a long way towards solving the deficiencies in Connecticut law as to the certification process. I am sorry that I have taken this long in terms of your time, but it was important to give you a pretty good idea as to these two crucial pieces of legislation as to what they contain. I would be glad to answer any questions that you might have.

REP. BIAFORE: Thank you Commissioner. You have given a very thorough briefing on all these pieces of legislation and I commend you on the briefing. I am sure everybody understood exactly in detail what you were saying, especially John here, he told me.

A couple questions, you keep saying two bills. In reality, in your opinion, do you feel then that this should be broken down into two separate pieces of legislation?

COMM. ROBERT GOOGINS: Not if you pass it as it is. But if one piece was going to jeopardize another then the answer is clearly yes. I would have preferred frankly, because they're really separate subject matters, if I had had my druthers, I'd have put them in as separate bills, but those two critical pieces are combined in one bill.

REP. BIAFORE: One other question. After looking at all these percentages that you gave us on what a company should or should not have invested in, just for my own curiosity, do you foresee any domestic insurance company in Connecticut that will not be able to come up to or have exceeded many of these percentages?

COMM. ROBERT GOOGINS: Well, we know of one company in particular, the nature of whose business is so different from a plain vanilla company, The Hartford Steam Boiler, that they have much more of their assets invested in common stocks and they would exceed from the gecko the limitations here. But they are very unusual company in terms of the nature of their business, and that may be absolutely appropriate for their type of business because as you may well know a good portion of their business is really loss prevention, a great deal of the amount of money they collect in goes to

make sure that you don't have a loss as distinguished from paying on a more common indemnity basis losses that you know are going to occur.

And that means that relative to the amount that they take in in their investments, their loss ratio is such that they ought to have greater liberality with respect to investing then would apply to 99% of the companies this is going to apply to. And it was simply much easier to deal with a simpler bill on the 100% and deal with the 1% on a waiver basis as appropriate.

SEN. JOHNSTON: Can your department, without additional staffing, which is another bill that we will B[Because later, handle this additional responsibility?

COMM. ROBERT GOOGINS: With respect to both the MGA bill and the investment bill, the answer is yes. But, it does[does raise a separate question since these are two key links in the NAIC peer certification process there are many other things the department is going to be measured against.

One of them is funding and one of them is staffing. And this will take care of one side of the question. It will spruce up Connecticut's laws. It will not take care of the Department's internal needs for a life actuary, for a property casualty actuary, for more examiners to make sure that we are doing the job that we should be doing.

So, from a separate point of view, there are other things that are going to be needed to deal with staffing and to deal with funding that will be required. But as it relates to these two specific bills, I wouldn't say that the addition of these two are themselves going to be the driver for those funding and staffing requirements.

I should point out that in the process of the development of HB6859 there were a number of what were truly typographical errors that crept in in the transmission process and what we are going to do is provide the clerk with just typos and corrections that are in that lengthy bills. So,

you will be getting that today as well, and I am not going to take your time to go through what they are.

REP. MARKHAM: Commissioner, on the first part of HB6859, does the bill give you the authority to waive the regulation, the requirements specifically in the Hartford Steam Boiler situation?

COMM. ROBERT GOOGINS: Yes, it does. It is designed specifically for that too purpose.

REP. MARKHAM: To allow you specific waiver?

COMM. ROBERT GOOGINS: Yes.

SEN. CASE: Commissioner, Senator Max Case. While you were going through the limits in discussing those, I thought you mentioned something about a penalty provision, but in looking through the act, it appears to me that the only penalty provision comes in section 16, and that seems to be geared towards the managing agent. Is there a specific penalty provision that, referring back to part 1, and if so, what is it?

COMM. ROBERT GOOGINS: There is not. So, if I did say that, I didn't mean to and I shouldn't have. There is no penalty provision in this law. There is, in fact, a penalty provision in the current skeletal part of the law that deals with life insurance companies to my recollection, and knowledge it has never been used. I don't think the specific penalty provision is something that is a necessary tool with respect to the regulatory oversight. My trying to see things don't occur in advance but the fact that these things are adhered to and it does of course give substantial authority to the Commissioner with respect to hearings, divestiture, explanations as to why limits are exceeded, but there is not penalty provision in there.

I don't, in and of itself oppose a penalty provision, but if past history is any experience of the existing penalty provision as I don't believe ever been used. Do you know of any situations, Jon?

JON ARSENAULT: Commissioner, no. Not within the investment laws. The insurance statutes authorize the Insurance Commissioner to impose a general penalty for violations of the insurance code for which no other penalty is provided. Moreover, each insurance company being licensed by the Insurance Commissioner is subject to the general penalty of revocation of their license or suspension of their license and/or imposition of a fine not to exceed \$10,000.

In a severe case in which there is a violation of investment statutes, the Insurance Commissioner has a statutory basis to petition the Superior Court to be appointed rehabilitator of a company.

COMM. ROBERT GOOGINS: So, the general penalty provisions are not being changed, but within this chapter there is not a precise penalty provision?

REP. BIAFORE: Yes.

REP. ANDREWS: Commissioner, Representative Curt Andrews. Is there a perception, is there a problem with the ownership of property provision right now with, is that going to cause a problem with some of the insurance companies in the huge amounts of real estate nationwide that they own currently?

COMM. ROBERT GOOGINS: No, I do not believe that is the case. It certainly is not the case with any of your large well known companies that are domesticated in Connecticut. The fact of the matter is with respect to some very very small companies that have been started up, there was at least one case where a very small company had virtually all of its' assets in two separate properties and the two properties were I think a real estate operated as a restaurant so they had virtually all of their assets in restaurant properties.

This would prevent that. But in terms of your large areas that make the state the important insurance state that it is, the investment limitations here with respect to those companies are not going to be a specific problem. But, as

they get up to the limitation contained in it or are added, it will effect what they can do in the future.

REP. ANDREWS: So, what you are saying then is that you would not see a massive divestiture if this were to be enacted by --

COMM. ROBERT GOOGINS: Oh, not at all.

REP. ANDREWS: Okay, another question if I may Commissioner, is this statute under HB6859, is this a copycat, if you will, of some other states or is this a state of the art thing that our great insurance State of Connecticut is proposing that is going to be copied by other states?

COMM. ROBERT GOOGINS: Most of the states do in fact have an investment section in their insurance codes. My guesstimate is that 75% of them look very, very alike. The rest of them probably look pretty much alike but the development of this particular investment chapter took off at a totally tack. It didn't, unlike the managing general agents part of this bill which is long (inaudible) on an earlier bill I referred to that really copied Delaware.

This one, I don't know whether the state of the art is the proper term or not but it was trying to address those specific problems that have come to the attention of the industry really in the last year or two, the last several years certainly and as a result of trying to address specifically those problems it has a lot of new provisions in it and key problem, as I've mentioned is that this imposes a prudent investment rule, of matching assets and liabilities and that is an upfront key provision that a lot of the investment codes that were enacted 20, 30, 40 years ago doesn't have at all. So this is certainly a much more modern version of an investment code and it is not modeled after XYX's laws.

REP. ANDREWS: And one more question if I may. Are there concerns on the part of the department as far as liability of insurance companies that are domiciled in Connecticut. Is this a knee jerk type of reaction to any problems with financial

institutions as far as insurance in the State of Connecticut right now or is this looking to the future to protect the consumers of the State of Connecticut?

COMM. ROBERT GOOGINS: This was not driven by any concern with respect to any particular company or any respective, any particular event that has occurred such as a write down of a particular company in their real estate portfolio. It is a response to a new economic environment that we end the collective problems that all financial institutions, not just insurers, are going to be facing and also was driven by the fact that this is a, not only an important tool to have irrespective of the requirements of the NAIC but is driven also by the fact that this is a mandatory requirement for peer certification. So there is no individual company event that has triggered this concern.

REP. ANDREWS: Thank you very much. Mr. Chairman.

REP. BIAFORE: Representative Chase.

REP. CHASE: Thank you, Mr. Chairman. Commissioner, Representative Chase, the 120th from Stratford. Congratulations on your appointment.

COMM. ROBERT GOOGINS: Thank you.

REP. CHASE: I wish you a lot of luck in your position. I have a number of questions and I'd like to go in order of the bills that you testified on. The first one being SB656.

COMM. ROBERT GOOGINS: Okay.

REP. CHASE: The standard valuation law.

COMM. ROBERT GOOGINS: Okay.

REP. CHASE: I don't pretend to understand the extremely complicated equations and formulas that are outlined in this legislation. However, I do have one question. It seems that this bill to a great extent refers to life insurance and then we have a section which I should have marked which seems to call for you adopting, or mandating you to

pharmacy that could have been purchased through a mail order pharmacy. Section two of the bill seeks to basically eliminate an insurance companies right to contract with certain providers, and, you know, we contract with a variety of providers basically as a cost containment measure and we really feel strongly that that, the right to do that, should not be eliminated.

The last bill that I'd just like to touch on, is raised bill 6859. This is AN ACT CONCERNING INSURER INVESTMENTS AND MANAGING GENERAL AGENTS. Blue Cross supports this bill. We feel it would really go along way to protect Connecticut residents. We just had one area that we'd like to comment on. The bill caps the equity portion of an insurers portfolio at twenty five percent of total assets and we would like to see that cap either raised or eliminated. Over the past years, equities have out performed all other investments except real estate, and we feel, you know, you're really capping an insurance companies ability to invest in a good area.

So that's just the one area that we had one that. Any questions?

REP. BIOFORE: Questions? Thank you. Richard Zick.

RICHARD ZICK: Members of the committee my name is Richard Zick and I'm Senior Vice President of the Utica Fire Insurance Company. I am here today to testify in favor of the passage of SB652 AN ACT CONCERNING INSURANCE GUARANTEE ASSOCIATION ACT. The Utica Fire Insurance Company is a licensed foreign insured domiciled in the State of New York and licensed to do business in New York and for other states one of which is Connecticut. By any standard we are a small insurance company. In many respects, operational wise and product profile wise, we would match up to a great extent to several of your small domestic mutual insurance companies.

Many of the problems which they face are common to us also. Specifically, we are concerned with paying only our fair share of insolvent company losses. It is very important to us to know how we are assessed on these personal lines for fees,

: (inaudible)

PATTI SHEA: Good afternoon Mr. Chairman, members of the committee. For the record, my name is Patti Shea and I'm Council to the Insurance Association of Connecticut. I am going to testify on several bills. The first of which is SB659 AN ACT CONCERNING REDOMESTICATION OF INSURANCE COMPANIES, which we are in support of. This bill would permit the transfer of an insurance company from out of state into this state and vice versa. The current law permits transfer of domicile to Connecticut only in the cases of mergers and acquisitions. And this bill would simplify that so that the company could simply move into the state without having to go through the protracted filings and approvals which would be otherwise necessary if it was going to set up a new company in the state.

Also, all of its certificates of authority is agents contracts and licensures would remain in full force and in effect. So, we think that this is a good piece of legislation. You have my written testimony which makes one suggestion, a technical change so I won't go into that right now, but we do think this is a good bill. The second bill is HB6858 AN ACT CONCERNING AN INCREASE OF INSURANCE COVERAGE FOR EMERGENCY MEDICAL SERVICES. We oppose this bill. It would increase the emergency ambulance mandate from the current amount of five hundred dollars to one thousand dollars per occasion.

The increased cost unnecessarily would cause an increase in premium, and I think this year when the General Assembly is specifically trying to contain the rising cost of health care that that adding to any existing mandates or expanding on mandates would be counterproductive. We are in support of HB6859 AN ACT CONCERNING INSURER INVESTMENTS AND MANAGING GENERAL AGENTTS Commissioner Googins explained in detail what this act would do and regulating insurance company investment, it would finally establish limitations and give the commissioner authority to act in this area, specifically. We believe that this bill is a

positive step and insuring sound financial regulation of the industry and in protecting the public and we urge you to adopt it.

Again, we have several technical changes that we think should be made to this legislation and we would be happy to work with you in finalizing the draft. On HB6863, this is AN ACT CONCERNING ACCESS OF SERVICES FOR CONSUMERS ENROLLED IN HMO'S. We would strongly oppose this bill. It would require HMO'S to provide payment to any health care institution rendering care. And that is you've heard other testimony before HMO'S the very basis under which they operate, is that they contract with certain providers and certain institutions to provide services.

It's a cost containment measure. They negotiate rates with providers and the product is able to be made more affordable for the consumers. This bill would effectively eliminate the operations of HMO'S in this state, and make all plans have to pay on an indemnity basis and we don't think that that is right to limit the consumers choice. The next bill is HB6893, AN ACT CONCERNING PHARMACY REQUIREMENTS UNDER GROUP HEALTH INSURANCE CONTRACTS. And you've heard testimony on this before. This bill would prevent an insurer from offering to his customer the alternative option of using a mail order pharmacies.

This, this issue was fully debated in 1989 and the General Assembly rejected the propositions that are set forth again here in this bill. In 1989, the resulting legislation, was 1338A1544 was adopted and that law clearly said that an insurer can not mandate that the customer use mail order pharmacies. So that is to insure that the customer has the choice, which is going on now. There are incentives set up so that the mail order pharmacies are cheaper. In fact, mail order pharmacies can cost up to forty five percent less than getting prescriptions from retail pharmacies, so the cost incentives that are there are justified.

It is again, the consumers choice in which way he wants to go. In addition to the cost savings, there is, this should be noted that it's an added convenience for certain customers who like to use

That doesn't apply to us because contractually, our contracts forbid being licensed with any other companies or any competition for 12 months and 25 miles. The company then reviews the agent's portfolio for derogatory information. A long term policyholder without losses could be non-renewed or cancelled due to derogatory motor vehicle history or other information which has developed in the company's reunderwriting of that risk.

The client has already met the company standards at the time the policy was issued, and normally changes other than an accident have little or no bearing on a policy once it is in force. But the policies would now be scrutinized again, possibly by different criteria, and without the benefit of an agent familiar with the circumstances involved in some of this activity, to intercede on their behalf with the company.

When policies are reassigned, it is done without contacting the insured to ask them for their preference of a local agent, and what started as a deliberate act of the insured to chose his own agent is now beyond their control.

Clients of independent agents are presently not subject to the same circumstances as independents do have certain protections of 18 months under the state statutes. Affirmative action on HB6984 by this committee would allow more than 160,000 policyholders of exclusive agents in the State of Connecticut to continue to make a decision as to which professional agent they choose to rely on.

If there's any questions...

REP. BIAFORE: Any questions? Brian Anderson.

BRIAN ANDERSON: Good afternoon Chairman Biafore, Chairman Johnston, and members of the Insurance Committee. My name is Brian J. Anderson. I am testifying in behalf of the Connecticut Access and Surplus Lines Association.

I'm here to express the Association's support of Raised HB6859, AN ACT CONCERNING INSURER'S INVESTMENTS AND MANAGING GENERAL AGENTS. We

believe that managing general agents should have no problem with this bill, and we support better policing of the industry.

The Association would like to see a language change in Raised HB6857, AN ACT CONCERNING PREMIUM BILLING NOTICE REQUIREMENTS. In the sections of this bill referring to surplus insurance where the word "insured" appears, we would like the language to read, "the insured or the insured's authorized representative". The reason for this is that surplus brokers deal almost exclusively with the insured's insurance agent, and almost never with the insured.

This makes it difficult for us at any point to know when the insured is actually receiving his premium billing notice because we send the notice to the insurance agent.

That concludes my testimony.

REP. BIAFORE: Inaudible.

BRIAN ANDERSON: I don't have the bill in front of me, Mr. Chairman but we referred to insured in a couple of the sections with surplus brokers.

REP. BIAFORE: Can you get that to us?

BRIAN ANDERSON: Great thanks.

REP. BIAFORE: David Anderson.

DAVID ANDERSON: Good afternoon, Mr. Chairman, members of the Committee, I'm David Anderson appearing on behalf of Vision Service Plan Insurance Company in support of SB650.

Vision Service Plan Insurance Company was chartered under another name in 1987 as a non-stock, non-profit insurance company which is a very unusual form for an insurance company to take. It was set up that way deliberately as the preference of the parent organization which desires to conduct its business on a non-profit basis.

STATEMENT OF  
INSURANCE ASSOCIATION OF CONNECTICUT  
BEFORE THE INSURANCE AND REAL ESTATE COMMITTEE  
REGARDING HB 6859  
THURSDAY, FEBRUARY 21, 1991

HB 6859 AN ACT CONCERNING INSURER INVESTMENTS AND MANAGING  
GENERAL AGENTS

The Insurance Association of Connecticut supports HB 6859, An Act Concerning Insurer Investments and Managing General Agents, which would regulate insurance companies' investments.

Currently, there are no statutory restrictions or limitations on an insurance company's investments. This bill would establish limitations and give the Commissioner increased authority to act in this area. The Insurance Association of Connecticut believes that this bill is a positive step in assuring sound financial regulation of the industry and protecting the public.

Therefore, the Insurance Association of Connecticut urges you to adopt this bill.

However, we do believe that several technical changes should be made and we would be happy to work with you in finalizing this legislation.

February 21, 1991

STATEMENT OF  
BLUE CROSS AND BLUE SHIELD OF CONNECTICUT, INC.  
REGARDING  
R.B. 6859, "AN ACT CONCERNING INSURER INVESTMENTS  
AND MANAGING GENERAL AGENTS

Blue Cross and Blue Shield of Connecticut supports the general concepts and provisions of R.B. 6859. We believe this will provide a sound footing for Connecticut's insurers and go a long way in protecting Connecticut residents from the problems caused by insurance company insolvencies.

There is one area of R.B. 6859 which I would like to comment on. The bill caps the equity portion of an insurer's portfolio at 25% of total assets. This limitation seems unnecessary. Over the past 10 years equities have outperformed all other investments except real estate. For this reason, Blue Cross and Blue Shield would like to see this cap raised or eliminated thereby allowing companies to prudently utilize their equity portfolios.

# Connecticut Excess and Surplus Lines Association

*Brian Anderson  
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Tape 3A*

Testimony of  
Brian J. Anderson  
On Behalf of  
Connecticut Excess and Surplus Lines Association  
Before the Legislature's  
Insurance and Real Estate Committee  
Thursday, February 21, 1991  
10:00 a.m.  
Room 1D  
Legislative Office Building  
Hartford, Connecticut

Good morning. My name is Brian J. Anderson. I am testifying on behalf of the Connecticut Excess Surplus Lines Association. I am here today to express the Association's support of Raised House Bill 6859 "An Act Concerning Insurer's Investments and Managing General Agents". We believe that managing general agents should have no problem with this bill and we support better policing of the industry.

The Association would like to see a language change in Raised House Bill 6857 "An Act Concerning Premium Billing Notice Requirements". In the sections of this bill referring to surplus insurance where the word "insured" appears, we would like the language to read "the insured or the insured's authorized representative". The reason for this is that surplus brokers deal almost exclusively with the insured's insurance agent and almost never with the insured. This makes it difficult for us at any point to know when the insured is actually receiving his premium billing notice because we send the notice to the insurance agent.

This concludes my testimony.

JOINT  
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COMMITTEE  
HEARINGS

INSURANCE AND  
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STATEMENT OF  
INSURANCE ASSOCIATION OF CONNECTICUT  
BEFORE THE INSURANCE AND REAL ESTATE COMMITTEE  
RE: CB 5067 AN ACT CONCERNING  
INVESTMENT PORTFOLIO OF INSURANCE COMPANIES  
THURSDAY, MARCH 14, 1991

The Insurance Association of Connecticut believes that CB 5067, An Act Concerning the Investment Portfolio of Insurance Companies is unnecessary, if this Committee intends to adopt RB 6859, An Act Concerning Insurer Investments, which was submitted by the Insurance Department.

CB 5067 adds nothing new. It would require insurance companies to report to the Commissioner regarding its investment portfolio and reserve liabilities and require the Commissioner to determine the percentage of the investment portfolio which is made up of junk bonds. These items are covered and in more detail in the Commissioner's bill, CB 6859. CB 6859 sets specific limits on all types of investments, not only junk bonds. It also gives the Commissioner authority to act in this area. The comprehensive approach of the Commissioner's bill provides greater protection to the public against insurer insolvencies.

Therefore, we would urge this Committee to reject CB 5067, in recognition that the Commissioner's bill, CB 6859, more fully and precisely accomplishes the intent of CB 5067.