

Legislative History for Connecticut Act

HB 7303	PA 380	0/00 1991
House	5185-5186, 10879-10900	(24)
Senate	3511-3513, 3515-3517	(6)
Judiciary	835, 840-842	(4)
		Total- 34p.

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 14  
5070-5460

005185  
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House of Representatives

Tuesday, May 14, 1991

DEPUTY SPEAKER MARKHAM:

Representative Pelto.

REP. PELTO: (54th)

Thank you, Mr. Speaker. I move this item be referred to the Committee on Public Safety.

DEPUTY SPEAKER MARKHAM:

Motion is to refer the bill to the Committee on Public Safety. Is there objection? Is there objection? Hearing none, so ordered.

CLERK:

Page 10, Calendar 533, Substitute for House Bill 7303, AN ACT CONCERNING THE RECOVERY OF COLLATERAL SOURCE BENEFITS AND THE CALCULATION OF ATTORNEY'S FEES WHEN BASIC REPARATIONS BENEFITS ARE REIMBURSED TO THE INSURER. Favorable Report of the Committee on Judiciary.

REP. PELTO: (54th)

Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Pelto.

REP. PELTO: (54th)

Mr. Speaker, I move that this item be referred to the Committee on Insurance and Real Estate.

DEPUTY SPEAKER MARKHAM:

Motion is to refer the bill to the Committee on

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Insurance and Real Estate. Is there objection? Is there objection? Hearing none, so ordered.

CLERK:

Calendar 542, Substitute for House Bill 7330, AN ACT CONCERNING THE COMMISSION ON VICTIM SERVICES. Favorable Report of the Committee on Judiciary. Page 11.

REP. PELTO: (54th)

Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Pelto.

REP. PELTO: (54th)

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

DEPUTY SPEAKER MARKHAM:

Motion is to refer the bill to the Committee on Appropriations. Is there objection? Is there objection? Hearing none, so ordered.

CLERK:

Calendar 543, House Bill 5947, AN ACT CONCERNING TEMPORARY STRUCTURES AND DEVICES USED IN THE PRODUCTION, STORAGE AND PROTECTION OF PLANTS OR PLANT MATERIAL. Favorable Report of the Committee on Finance, Revenue and Bonding.

REP. PELTO: (54th)

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VOL. 34  
PART 29  
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the distinguished Chair of the Banks Committee is  
Matthew Ritter. We would like the Chamber to say hi.

APPLAUSE

DEPUTY SPEAKER POLINSKY:

That's what I call a low profile. Further  
announcements or Points of Personal Privilege? The  
Clerk please return to the Call --. The Clerk please  
return to the Call of the Calendar.

CLERK:

Calendar 533, on Page 7, Substitute for House Bill  
7303, AN ACT CONCERNING RECOVERY OF COLLATERAL SOURCE  
BENEFITS AND THE CALCULATION OF ATTORNEY'S FEES WHEN  
BASIC REPARATIONS BENEFITS ARE REIMBURSED TO THE  
INSURER.

Favorable Report of the Committee on Insurance and  
Real Estate.

REP. TULISANO: (29th)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

The handsome gentleman from Rocky Hill,  
Representative Tulisano.

REP. TULISANO: (29th)

Madam. I can't go on. Madam Speaker, I move for  
acceptance of the Joint Committee's Favorable Report  
and passage of the bill.

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DEPUTY SPEAKER POLINSKY:

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

REP. TULISANO: (29th)

Yes, Madam Speaker. The Clerk has an amendment, LCO6587.

DEPUTY SPEAKER POLINSKY:

Will the Clerk please call LCO6587, which shall be designated House "A".

CLERK:

LCO6587, House "A", offered by Representative Biafore, et al.

DEPUTY SPEAKER POLINSKY:

The gentleman has asked leave of the Chamber to summarize. Without objection, please proceed, sir.

REP. TULISANO: (29th)

Yes, Madam Speaker. Madam Speaker, this amendment deletes the first part of the file copy, leaving the remainder which makes clarifications of the law dealing with the way attorneys compute recovery under no-faults when they represent somebody to make sure that there is no double dipping going on out there. I move for adoption of the amendment.

DEPUTY SPEAKER POLINSKY:

The motion is on adoption. Will you remark? Will

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you remark further?

REP. TULISANO: (29th)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Tulisano.

REP. TULISANO: (29th)

Madam Speaker, a number of years ago when we did the legislation dealing with no-fault, we had made it clear that the client or the consumer should get the benefit of the reimbursement law. It seems there have been some folks who have either misinterpreted or avoided the original intent in the law. This makes it clear that an attorney cannot get paid twice on an area.

I move passage of the amendment.

DEPUTY SPEAKER POLINSKY:

The question is on adoption. Will you remark further on this amendment? Representative Krawiecki.

REP. KRAWIECKI: (78th)

Thank you, Madam Speaker. A question to Representative Tulisano. Representative Tulisano, it's my understanding that in Section 1 of the file copy that we are attempting to also clear up the fact that certain insurance companies, I gather, would not be able to be reimbursed from the proceeds of a civil

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settlement and it's been my understanding that there's been some doubt as to what our intention was under the statute that was adopted a number of years ago and with the amendment that you've put before us, are you in fact now putting us back into a posture of doubt as to what our original statute was intended to mean, through you, Madam Speaker?

DEPUTY SPEAKER POLINSKY:

Representative Tulisano.

REP. TULISANO: (29th)

Through you, Madam Speaker, I hope not. I don't intend to place us in doubt. I think the current law is clear that there is no recovery whether it is resolved through civil proceedings or through negotiated settlement and there's no need for this part, and further, that I understand the subsequent amendment will look at this whole area in its totality again. So at this point I don't think it's appropriate to go forward.

DEPUTY SPEAKER POLINSKY:

Representative Krawiecki.

REP. KRAWIECKI: (78th)

Madam Speaker, let me ask Representative Tulisano another question. Representative Tulisano, so that if this amendment that you put on the table were to be

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defeated, I assume you wouldn't feel strongly about it one way or the other. Is that accurate?

DEPUTY SPEAKER POLINSKY:

Representative Tulisano.

REP. TULISANO: (29th)

But for a commitment I made to somebody else, I wouldn't feel too strongly about it.

REP. KRAWIECKI: (78th)

Thank you, Representative Tulisano.

DEPUTY SPEAKER POLINSKY:

Will you remark further on House Amendment "A"? Will you remark further? If not, let us try our minds. All those in favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER POLINSKY:

Opposed nay.

REPRESENTATIVES:

No.

DEPUTY SPEAKER POLINSKY:

We seem to be playing games. Let's try it one more time. All those in favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

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DEPUTY SPEAKER POLINSKY:

Opposed nay.

REPRESENTATIVES:

No.

DEPUTY SPEAKER POLINSKY:

The eyes have it.

The amendment is adopted.

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Delete section 1 and renumber the remaining section accordingly.

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DEPUTY SPEAKER POLINSKY:

Will you remark further on this bill as amended?

Representative Fonfara.

REP. FONFARA: (4th)

Thank you, Madam Speaker. The Clerk has an amendment, LCO7915. May he please call and I be allowed to summarize.

DEPUTY SPEAKER POLINSKY:

Will the Clerk please call LCO7915, which shall be designated House Amendment "B".

CLERK:

LCO7915, designated House Amendment Schedule "B",  
offered by Representative Fonfara, et al.

DEPUTY SPEAKER POLINSKY:

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The gentleman has asked leave of the Chamber to summarize. Without objection, please proceed, Representative Fonfara.

REP. FONFARA: (4th)

Thank you, Madam Speaker. Madam Speaker, this amendment is the result of a very arduous, difficult, tortuous effort to try to bring before this Chamber some meaningful reform in the area of automobile insurance.

I move adoption.

DEPUTY SPEAKER POLINSKY:

The question is on adoption. Will you remark further, Representative Fonfara?

REP. FONFARA: (4th)

Yes, Madam Speaker, thank you. Madam Speaker, this issue of automobile insurance is certainly one of the most difficult ones to come before this Chamber, in my opinion. It's one that I believe every legislator has heard from their constituents on from time to time. It's one that generates considerable anger and frustration among the consuming public.

However, unlike so many other issues that come before us, such as abortion or the death penalty where virtually every individual in this building and in the public has an opinion and very often that is an

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informed opinion. Automobile insurance does not generate that kind of debate. ~~together to bring up~~  
It is a confusing issue. However, it is one that deserves the attention of this body and it has been studied before and it will be studied again. However, the facts remain the same and that is that the Connecticut system on automobile insurance has broken down. Connecticut pays the third highest rates in automobile insurance in the country currently.

Liability rates alone have increased an average of 12 percent over the last seven years. The system is broke and it needs fixing. Many believe that this was the year for auto reform and that substantial relief for the Connecticut consumers was about to be had, however, the difficulty surrounding the issue and that well-intentioned individuals on each side, arguing their particular positions has prevented us from coming together in line mind, informing an opinion that would truly bring about meaningful reform.

It is the hope of many people in this Chamber that in the next year that we'll be able to do that through this particular action that we have before us currently.

The amendment brings together in the form of a task force a number of individuals from disparate

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backgrounds in attempting to bring those people who have an interest in this area together to bring about meaningful reform. I'm hopeful along with I know a number of my colleagues that this effort will accomplish something and we'll be able to bring it before the Chamber next year.

I hope that -- I want to thank the body for overturning the Unfavorable Report on an unrelated bill earlier in the session and I want to thank those who have participated in this very difficult effort to bring the parties together. It has not been easy. It has made some of us very impatient at times. However, I think that -- I believe that it will be worthwhile in that the results, I hope, will be fruitful.

I move adoption of the amendment, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Thank you. The question is on adoption. Will you remark? Will you remark? Representative Chase.

REP. CHASE: (120th)

Thank you, Madam Speaker. Madam Speaker, I'd rise in support of the amendment. As a member of the Insurance Committee, I can testify that Representative Fonfara and other members of the committee put in long arduous hours to try to come up with a reform package that was fair to all parties concerned. Unfortunately

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we lost that on a ten to ten vote. I think Representative Fonfara should be congratulated for being as tenacious as he has throughout this session to try to resolve this issue. I don't like this -- I don't want to have to study this issue again. It seems like all we do with this issue is study it, but here we go again, and hopefully we can resolve this problem once and for all. Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on this amendment? Representative Metsopoulos.

REP. METSOPOULOS: (132nd)

Thank you, Madam Speaker. I rise in support of the amendment. In the Insurance Committee this year we had a public hearing dealing with the issues that are put forth in this amendment and many of us felt that not enough answers were given by both sides on the issue in order to come up with a comprehensive plan for insurance reform.

This task force, Madam Speaker, I believe represents all the parties and all the interests that have impetus and input into this very important issue. I believe that over the interim we will be able to hold public hearings, collect input and data from the public, the industry and other interested parties and

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it is my hope, Madam Speaker, that come the February session in 1992 we will be able to come forward with a package that is fair, even-handed and addresses the issue of ever escalating automobile insurance costs which is an issue that is on the minds of the consumers of our state. Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further?

Representative Biafore.

REP. BIAFORE: (125th)

Madam Speaker, I also rise in support of this amendment. I think that there were many of on the committee who thought we had reached a fairly good solution to the problem. Others thought that we should continue the process and I think this amendment says we will continue the process, but it says even more. I think we put together a task force that is balanced, one which was going to be fair to all in the State of Connecticut and one that will come back next year not to just say we had a task force, but will actually introduce legislation, which I hope will bring about automobile reform in this state.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on this amendment? Representative Tulisano.

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REP. TULISANO: (29th)

Madam Speaker, through you, Madam Speaker, a question to the proponent of the amendment, just for a point of information. What does he mean by a foreign insurer?

DEPUTY SPEAKER POLINSKY:

Representative Fonfara, do you care to respond?

REP. FONFARA: (4th)

Yes, Madam Speaker, through you, a foreign insurer is the statutory language referring to an out-of-state non-domestic insurer.

DEPUTY SPEAKER POLINSKY:

Representative Tulisano.

REP. TULISANO: (29th)

Madam Speaker, I just want to make sure that this doesn't -- that there is any representation for non -- insurance companies not domestic, that is, in the United States and not American. Are there any provision for those like in Lloyds, etc., to be involved because they underwrite, I recall, through you, Madam Speaker? A number of people are saying we could or could not do things because of Lloyds. We're not underwriters. Was there any input from that group on this commission?

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Representative Fonfara.

REP. FONFARA: (4th)

I'm sorry, Madam Speaker, if the question could be repeated, through you.

REP. TULISANO: (29th)

Through you, Madam Speaker --.

DEPUTY SPEAKER POLINSKY:

(Gavel) When the gentleman who is being questioned is asked a question he can't here, it's very difficult for him to respond. I would ask you to move your conversations and your coffee clutches out into the lobby. Out into the lobby please. Representative Tulisano, would you repeat the question?

REP. TULISANO: (29th)

Yes, through you, Madam Speaker, I just want to know if there's any provision for what they can the reinsurer and usually many of them are outside of the United States, any provision for their input in this system?

DEPUTY SPEAKER POLINSKY:

Representative Fonfara. Representative Fonfara, did you hear the question?

REP. FONFARA: (4th)

Yes, Madam Speaker, through you, it's my understanding that this particular group does not write

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auto insurance in this state and that they would not have any role in this particular matter.

DEPUTY SPEAKER POLINSKY:

Representative Tulisano.

REP. TULISANO: (29th)

Thank you, Madam Speaker. At this point I'm not going to oppose the amendment, but let me say that I think it is deficient in that there is only one individual representing the people, the consumer, as I can see, of all the appointees, and I think if we're really interested in dealing with consumer interest, consumer concerns and higher rates, then we ought to take those into consideration. I think that is a defect in this amendment and I would urge whoever is running that committee to make sure that they have great input in it.

This is about the third bill today that I think that I've stood up here on and saying what's really happening and when it gets to the real people, we don't do anything for them and here's another example of that. Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Thank you. Will you remark further on this amendment? Will you remark further? Representative Taborsak.

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REP. TABORSAK: (109th) verbal thresholds, but  
Thank you, Madam Speaker, very briefly on the bill.  
I think there are many of us in the Chamber who feel a  
lot of frustration over the inability of two opposing  
sides on this issue to reach an agreement that would  
provide some relief to consumers in Connecticut for the  
cost of auto insurance, insurance that we require them  
to have and we are looking at a balanced task force.

Each side in the verbal threshold argument has  
eight proponents and I suppose their job before  
February 1st of 1992 is to convince the Insurance  
Commissioner the justice of their position, but I hope  
by February 1st that the debate can go beyond the two  
parties that have prevented us from providing more  
affordable rates in 1991. I think we've treated them  
with more than enough patience and tolerance that we  
didn't show, for instance, to nursing home rates. We  
had cost problems there and were not reluctant to find  
ways to reduce the nursing home rate. We weren't as  
reluctant to freeze state employee salaries and we  
certainly weren't reluctant to reduce Workers'  
Compensation benefits in the state, but here's an area  
where we're reluctant because it's so complicated that  
we're not going to do it.

Well, I look for that report on February 1, 1992

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not to end the debate on verbal thresholds, but to provide some meaningful relief and some affordable auto insurance policies for the people that we represent.

DEPUTY SPEAKER POLINSKY:

Thank you, madam. Will you remark further?

Representative Andrews.

REP. ANDREWS: (88th)

Thank you very much, Madam Speaker. Very briefly, I want to congratulate Representative Biafore, our Chairman, and Mr. Fonfara on a tremendous effort in coming to this point. I believe very strongly that the task force and the charge in the task force will be able to bring out very meaningful reform and I think Representative Taborsak, I hope Representative Taborsak will be pleased with what the outcome of this report and I urge all of us to participate in comments and hopefully we, as a legislature in the 1993 session, the 1992 session, can come back with some meaningful reform on the number two issue after the budget for the people of the State of Connecticut and do something very, very meaningful as far as automobile insurance is concerned.

Thank you, Madam Speaker. I urge adoption.

DEPUTY SPEAKER POLINSKY:

Thank you. Representative Thorp.

REP. THORP: (89th)

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Just very quickly, my compliments to Representative Fonfara for keeping up a good fight when many of us thought that it was impossible to do anything further this year. My congratulations also to Representative Taborsak for her broad-minded outlook on the matter and her willingness to continue to review the matter. As a long term member of the committee, recommend the measure to the body and I thank all of the people that were involved in this compromise very much.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on this amendment? Will you remark further? If not, all those in favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER POLINSKY:

Opposed nay.

The ayes have it.

The amendment is adopted.

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House Amendment Schedule "B":

After line 64, insert the following:

"Sec. 3. (a) There is established a task force to study automobile insurance reform and its relevant issues as a means to reduce the cost and improve the availability of private passenger automobile insurance in the state. These issue shall include, but not be limited to the following: No-fault threshold; minimum reparation benefits for medical expenses and work loss;

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minimum financial responsibility limits for liability, uninsured motorist coverage and underinsured motorist coverage; stacking of uninsured and underinsured motorist coverages; the determination of rates by territory; the methods employed in the rate-making process; the review of medically related expenses and procedures, including medical fee scheduling, the provision of health insurance as primary coverage in automobile accidents, and utilization review procedures; uninsured motorist coverage for property damage; the cost of automobile replacement parts and the effectiveness of implementing a preferred provider automobile repair procedure; the effectiveness of implementing a prior rate approval system; the establishment of an independent consumer advocate position; claim settlement procedures and the notification to the department of motor vehicles of automobile liability cancellations.

(b) The task force shall consist of the insurance commissioner, the cochairpersons and ranking members of the joint standing committee of the general assembly having cognizance of matters relating to insurance and real estate; the cochairpersons and ranking members of the joint standing committee of the general assembly having cognizance of matters relating to the judiciary; two members appointed by the president pro tempore of the senate, one of whom shall be a legislator and the other shall be a representative of trial lawyers; one member appointed by the majority leader of the senate who shall be a representative of consumer organizations; one member appointed by the minority leader of the senate who shall be a representative of foreign insurers; two members appointed by the speaker of the house of representatives, one of whom shall be a legislator and the other shall be a representative of the medical profession; one member appointed by the majority leader of the house of representatives who shall be a representative of independent insurance agents; and one member appointed by the minority leader of the house of representatives who shall be a representative of domestic insurers. The insurance commissioner shall serve as chairman.

(c) The task force shall submit a written report, together with any specific recommendations for legislation to implement the recommendations of the report, on or before February 1, 1992, to the committee having cognizance of matters relating to insurance and real estate.

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Sec. 4. The task force shall conduct the study under section 3 of this act within available appropriations of the insurance department."

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DEPUTY SPEAKER POLINSKY:

Will you remark further on this bill as amended? Will you remark further? If not, will all members please take their seats. Staff and guests to the well of the House. The machine will be opened.

CLERK:

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

The House of Representatives --. The House of Representatives --.

DEPUTY SPEAKER POLINSKY:

(Gavel) There seems to be a problem with the audio system on the outside of this Chamber and if you'd all stand at ease for a moment while we try to get everybody in to vote and while we try and fix the machinery.

CLERK:

The House of Representatives --.

DEPUTY SPEAKER POLINSKY:

Have all members voted? Have all members voted and is your vote properly recorded? What I plan to do is

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to close the machine and not announce the tally for a few more minutes. Have all members voted? Have all members voted and is your vote properly recorded? If all members have voted --.

CLERK:

The House of Representatives is voting by roll.

DEPUTY SPEAKER POLINSKY:

If all members have voted, the machine will be locked as soon as Representative Schiessl votes. No, Lawlor. The Clerk will take a tally.

DEPUTY SPEAKER POLINSKY:

Representative Gilligan.

REP. GILLIGAN: (28th)

In the affirmative, madam.

DEPUTY SPEAKER POLINSKY:

Representative Gilligan in the affirmative.

Representative Stratton.

REP. STRATTON: (17th)

In the affirmative.

DEPUTY SPEAKER POLINSKY:

Representative Stratton in the affirmative.

Representative DeZinno.

REP. DEZINNO: (84th)

In the affirmative, madam, and thank you.

DEPUTY SPEAKER POLINSKY:

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Representative Negron. AS AMENDED BY HOUSE BILL

REP. NEGRON: (6th)

In the affirmative.

DEPUTY SPEAKER POLINSKY:

Representative Giordano.

REP. GIORDANO: (102nd)

In the affirmative.

DEPUTY SPEAKER POLINSKY:

In the affirmative. Representative Santiago.

REP. SANTIAGO: (130th)

In the affirmative, Madam Speaker.

DEPUTY SPEAKER POLINSKY: TO BE

Representative Caruso.

REP. CARUSO: (134th)

In the affirmative, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Caruso in the affirmative. I think that about does it.

Will the Clerk please announce the tally.

CLERK:

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House Bill 7303, as amended by House Amendment Schedules "A" and "B".

Total Number Voting	148
Necessary for Passage	75
Those voting Yea	148
Those voting Nay	0
Those absent and not Voting	3

DEPUTY SPEAKER POLINSKY:

The bill as amended is passed.

Representative Pelto.

REP. PELTO: (54th)

Thank you, Madam Speaker. Pursuant to our rules, I move that the last item we acted upon be immediately transmitted to the Senate.

DEPUTY SPEAKER POLINSKY:

Pursuant to our rules, the motion is to transfer this last item to the Senate. Is there objection? Without objection, so ordered.

The Clerk please return to the Call of the Calendar.

CLERK:

House Bill 7251, AN ACT CONCERNING COMMUNITY LAND TRUSTS AND DESIGNATION OF LAND WITH CONSERVATION RESTRICTIONS AS NATURAL AREA PRESERVES. (As amended by House Amendment Schedules "A" and "B").

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CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
1991  
TRAILER SESSION

VOL. 34  
PART 10  
3281-3627

WEDNESDAY  
June 5, 1991

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Senator O'Leary.

SENATOR O'LEARY:

Thank you, Madam President. Madam President, I move for suspension of the rules to take up an item on Senate Agenda #6. It's under number 1a, Substitute HB7303.

THE CHAIR:

Is there any objection for the suspension of the rules to take an item on Senate Agenda #6, 1a, HB7303? Is there any objection for the suspension of the rules for that purpose? Any objection? Hearing none, so ordered.

Mr. Clerk, would you call the item, please.

THE CLERK:

Turning to Senate Agenda #6, Substitute HB7303, File #620, AN ACT CONCERNING THE RECOVERY OF COLLATERAL SOURCE BENEFITS AND THE CALCULATION OF ATTORNEY'S FEES WHEN BASIC REPARATIONS BENEFITS ARE REIMBURSED TO THE INSURER. As amended by House Amendment Schedules "A" and "B". Favorable Report of the Committee on Insurance and Real Estate.

THE CHAIR:

Thank you very much, Mr. Clerk. The Chair would recognize Senator Johnston.

SENATOR JOHNSTON:

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Thank you, Madam President. I would move for acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the House.

THE CHAIR:

Thank you very much, Senator. Would you care to remark further?

SENATOR JOHNSTON:

Thank you, Madam President. The House made two changes to the bill. House Amendment Schedule "A" deleted section 1 of the bill. That was agreed to by all the parties. House Amendment "B" established a task force to study the issue of auto insurance reform and the whole series of issues that go along with it. It made up a task force with the Insurance Commissioner as the Chairman of the Task Force, with all legislative appointments, along with the Chairman and the ranking members of the Insurance Committee and the Judiciary Committee and they can report to the General Assembly in February.

I would urge passage of the bill as amended by the House.

THE CHAIR:

Thank you very much, Senator. Would anyone else wish to remark on Substitute HB7303? Are there any other remarks or any questions? Any remarks? If not.

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SENATOR JOHNSTON:

Madam President, I would move that the bill be placed on the Consent Calendar.

THE CHAIR:

Thank you very much, Senator. Is there any objection in placing Substitute HB7303 of Senate Agenda #6 on the Consent Calendar? Is there any objection? Any objection? Hearing none, so ordered.

Senator O'Leary.

SENATOR O'LEARY:

Thank you, Madam President.

Page 14, Calendar #132, I ask the Clerk to bring that one forward.

THE CHAIR:

Thank you very much, Senator.

THE CLERK:

Calendar Page 14, Calendar #132. Previously removed from the Foot of the Calendar. Files #137 and #192. HB6301, AN ACT CONCERNING THE APPOINTMENT OF DEPUTY CITY OR TOWN MANAGERS. As amended by House Amendment Schedules "A" and "B". Favorable Report of the Committee on Planning and Development.

THE CHAIR:

Thank you very much. Has there been a motion to take this from the Foot of the Calendar, Mr. Clerk?

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Calendar.

THE CHAIR:

Thank you very much, Senator. Is there any objection in moving Senate Calendar #132, HB6301 to the Consent Calendar? Is there any objection? Hearing none, so ordered.

Senator O'Leary.

SENATOR O'LEARY:

Madam President, I think we are at a point where we could call the Consent Calendar.

THE CHAIR:

Thank you very much, Senator.

Mr. Clerk, would you make the announcement for a roll call?

THE 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:

Thank you very much, Mr. Clerk. The issue before the Chamber is Consent Calendar #2 for today, June 5, 1991. Mr. Clerk, would you be kind enough to read the items that have been placed on the Second Consent

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Calendar for today.

THE CLERK:

Madam President, the Second Consent Calendar begins on Calendar Page 1, Calendar #530, HJ123.

Calendar Page 3, Calendar #604, Substitute HB6637.

Calendar Page 11, Calendar #189, Substitute HB5091,  
Calendar #239, Substitute SB347, Calendar #332,  
Substitute HB7080.

Calendar Page 12, Calendar #507, Substitute SB723,

Calendar Page 14, Calendar #132, HB6301.

Calendar Page 18, Calendar #614, Substitute HB7337.

Senate Agenda #1, Substitute HB7346, Substitute HB7344.

Senate Agenda #2, Substitute SB746, Substitute HB7068, Substitute SB964.

Senate Agenda #3, Substitute SB688.

Senate Agenda #4, SB558.

Senate Agenda #6, Substitute HB7303 and Substitute SB892.

Madam President, that completes the Second Consent Calendar.

THE CHAIR:

Thank you very much, Mr. Clerk.

You've heard the items that have been placed on the Consent Calendar #2 for June 5, 1991.

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The machine is on. You may cast your vote.

Is Senator Avallone about? Senator Avallone? 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.

THE CHAIR:

Senator DeLuca, do you want a Point of Personal  
Privilege, I understand.

SENATOR DELUCA:

Thank you, Madam President. We have a visitor with  
us this evening, the former State Representative from  
the 120th District from Monroe, Adele Kusnitz. I hope  
you'll join me in giving her a warm welcome.

THE CHAIR:

Senator O'Leary.

SENATOR O'LEARY:

Thank you, Madam President. On Senate Agenda #6,  
under Disagreeing Actions, Substitute HB7251. Ask  
that that be called.

THE CHAIR:

JOINT  
STANDING  
COMMITTEE  
HEARINGS

JUDICIARY  
PART 3  
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JUDICIARY

March 22, 1991

REP. MINTZ: Andy Grower.

ATTY. ANDY GROWER: Good afternoon Commissioner Tulisano, members of the Committee, my name is Andy Grower, I'm an attorney here in Hartford, with the law firm of Risgassi and Davis, and I'm also on the Board of Governors of the Connecticut Trial Lawyers Association, and I'm here today to speak about three of your bills.

Three of the bills that are on today. HB7302, which involves raising the limits of minimum liability coverage for automobiles, and the maximum liability on the Dram Shop. HB7303 involving collateral source payments, and HB7164, on the physician-patient privilege.

With respect, let me start with the last one first, with respect, cause that's the quickest. To the physician-patient privilege, that's a bill, that's HB7164, that's a bill that was drafted last year and passed last year and was done in close conjunction with the State Attorney General's office and this Committee, I believe, and the language that was drafted was ultimately the language that was adopted and passed.

The amendment that's proposed for this year to allow a physician or licensed health care provider to speak to his attorney, or professional liability insurer, or such insurer's agent concerning the patient, we have very little problem with one exception.

I can understand an attorney who, particularly if it's an attorney and the matter involves litigation, wanting to be able to speak with his or her, I'm sorry, physician wanting to speak with his or her attorney, and I think that's perfectly appropriate.

There is a confidentiality of communications between an attorney and his or her client. So that keeping in mind that the focus of this bill is to keep communications between a physician and a patient reasonably confidential, unless the patient wishes to waive that confidentiality.

ATTY. ANDY GROWER: It does fail or else the price of a drink goes up.

REP. TULISANO: Or we change the whole theory.

ATTY. ANDY GROWER: Or we change the whole theory.

REP. TULISANO: I mean the theory behind it is everything reasonableness. If reasonableness now fails because the cost of providing the coverage is gone, if that's a true statement, then you might have to look at a whole new approach.

ATTY. ANDY GROWER: I don't recall who brought it up earlier, but the concept of doing away with the Dram Shop Act and just imposing standard negligence rules on liability is certainly one way to be, the Committee could go.

Again, you're talking about, when you talk about who's in the best position other than the drunk to avoid the problem, it's the person selling them the alcohol. You know, and the law only imposes liability if they sell alcohol to an intoxicated person. So you still have to prove that the person was intoxicated at the time they purchased the alcohol.

Finally, on the bill on collateral source, HB7303, in 1986 when the legislature passed the Tort Reform legislation, they did away with the traditional collateral source rule. Under that rule collateral sources were not deducted from recovery that an injured person made in a personal injury action.

Under the new rule they are. What has developed is a confusion in the application of the law. The health care insurers, primarily Blue Cross have taken the position that in a settlement, they're still entitled to assert a lien against the proceeds received.

They acknowledge that if it went to judgment, they would not be entitled to assert a lien. This gives you the crazy situation where the company's actually better off if there's a settlement made

than if the case goes to verdict, and in some cases will foster cases going to trial and prevent settlements.

What this bill seeks to do is make it uniform. This issue came before Commissioner Giles when he was still Insurance Commissioner and at first he said the rule prohibited enforcement of the lien, and then he said -- well I don't know what the rule really, the law means, it needs further legislative clarification.

So here we are asking for that clarification because it's clear that the intent of the 1987 of the 1986 statute was to do away with insurer's liens except those provided by law. That should, if that's the intent of the statute, it should apply to all cases, not just those that go to judgment, and there should be no confusion on that. That's going to foster more litigation if it isn't cleared up.

REP. TULISANO: Mr. Rennie.

REP. RENNIE: Are you aware of any Blue Cross Blue Shield obtaining any judgments against their insureds to enforce a lien.

ATTY. ANDY GROWER: There have been no judgments to date. There are currently actions pending by Blue Cross Blue Shield but I think those pertain to asserted liens prior to the Tort Reform legislation.

What Blue Cross Blue Shield has done in Bridgeport that is sending out letters to all, I believe to all personal injury lawyers, or anyone who has handled a case involving one of their insureds, notifying them that they have a lien and demanding payment.

I know in cases where, and that's pre-tort reform for the most part. But in cases I'm representing, where we've taken the position, Blue Cross still sends out their little form to people saying we're not going to pay you unless you sign off this abrogation agreement, and they also send off their form to the attorneys who are handling the case asking them to represent Blue Cross as well.

In my office, what we do is send them a letter saying they no longer have a lien right. We get a letter back from Mr. Burman saying oh yes we do, citing Commissioner Giles opinions and notifying us that they intend to assert that lien right. So far...

REP. TULISANO: Can they not pay, as you just said?

ATTY. ANDY GROWER: So far they haven't taken that step. I think if they take that step, there will be a lot, a big law suit. I don't think they can not pay.

REP. TULISANO: Mr. Radcliffe.

REP. RADCLIFFE: Thank you Mr. Chairman. You mentioned on bill HB7302, raising the limits to \$100,000 would essentially give protection for most, most injuries where a \$20,000 per person, \$40,000 per incident policy's inadequate, is that right?

ATTY. ANDY GROWER: I think it will go a long way towards doing that, yes.

REP. RADCLIFFE: If that's the case. If it would do that, if it would provide a means for recovery in more cases, would we any longer need the policy of stacking for uninsured or underinsured motorist coverages, because that would then decrease the claims in that area?

ATTY. ANDY GROWER: Well, I mean, that's sort of an apples and oranges situation. The stacking only, the stacking comes into play, and is permitted, and the theory behind it is that you're paying a premium for two, in essence two insurance policies.

You insure two cars, you pay a separate premium. It's not one premium based on the number of people you have in your family. It's not one premium based on risk, or anything in that area. It's two premium, it's a premium by car. You have two cars, you pay two premiums. You have four cars, you pay four premiums.