

Legislative History for Connecticut Act

HB 5190	PA 95	1992
House	1842 - 1847	(6)
SENATE	2487, 2531 - 2532	(3)
Insurance + Real Estate	385, 386, 387 - 388, 390 - 394, 459, 460, 476, 500 - 501, 563 - 566	(18)
CONNECTICUT STATE LIBRARY LEGISLATIVE REFERENCE SECTION		210

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1992

VOL. 35
PART 6
1744-2123

001842

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House of Representatives

Wednesday, April 15, 1992

House Bill 5114.

Total number voting 145

Necessary for passage 73

Those voting yea 145

Those voting nay 0

Those absent and not voting 6

DEPUTY SPEAKER MARKHAM:

The bill is passed.

CLERK:

Calendar 158 on Page 17, please. Substitute for House Bill 5190, AN ACT CONCERNING CONFIDENTIALITY OF INSURANCE DEPARTMENT FINANCIAL WORKPAPERS, OPERATING AND CONDITION REPORTS. Favorable Report of the Committee on GAE.

REP. BIAFORE: (125th)

Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Biafore of the 125th.

REP. BIAFORE: (125th)

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

DEPUTY SPEAKER MARKHAM:

The motion is on acceptance of the Joint Committee's Favorable Report and the passage of the bill. Will you remark, Sir?

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Wednesday, April 15, 1992

REP. BIAFORE: (125th)

Yes. Mr. Speaker, the bill was proposed by the Insurance Commissioner to bring us closer to accreditation by the NAIC. Basically what it does, it will clarify explicitly what documentation has to be open to the public under analysis by the Insurance Commissioner. I move its adoption.

DEPUTY SPEAKER MARKHAM:

Will you remark further on the bill? Will you remark further? Representative Krawiecki.

REP. KRAWIECKI: (78th)

Thank you, Mr. Speaker. A question to Representative Biafore, please.

DEPUTY SPEAKER MARKHAM:

Please frame your question, Sir.

REP. KRAWIECKI: (78th)

Representative Biafore, I'm just intrigued by the language in lines 9 and 10 and I know there's an amendment that's floating around the building someplace, it may have taken care of one of my concerns.

But, that language seems to infer that the Commissioner can violate FOI should he choose to, or could in fact provide information that is not currently required to be provided under our Freedom of

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Information Act, and I'm wondering, through you, Mr. Speaker, what's the reason for that choice of words in this file copy.

DEPUTY SPEAKER MARKHAM:

Representative Biafore.

REP. BIAFORE: (125th)

Through you, Mr. Speaker, the choice of words are there because it actually mirrors the banking statutes which are on the statutes now, I believe, which allows the Commissioner to withhold some sensitive information from public records because of the possibility of a similar to a run on a bank if that information is given out.

Because of the sensitivity of this legislation, the Insurance Department has been in communication with the executive director and general counsel of the State Freedom of Information Commission and they have approved, they have no objection to the language being put into the bill.

REP. KRAWIECKI: (78th)

Thank you for that answer, Representative Biafore. I am sure that the Commissioner would love that language and I am not persuaded particularly by the fact that it may be language that exists for some other department. It may be that the other department's

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language is wrong as well.

Did your Committee consider Section 1-18a of the statutes dealing with freedom of information and whether or not this complies with those regulations?

Through you, Mr. Speaker.

REP. BIAFORE: (125th)

Through you, Mr. Speaker, the Committee did consider and we questioned the Commissioner on this and the Committee felt satisfied that this requirement was needed in order to protect people who have money in these insurance companies, people who are buying the policies, and also for the Commissioners to do their jobs correctly, to make sure, as I said, there isn't a run.

And if there is a company that might be needing help, that they could get the help without information being leaked to the press.

REP. KRAWIECKI: (78th)

One additional question, through you, Mr. Speaker. Representative Biafore, I understand that Commissioner Googins does a nice job and that there are a lot of us in this building that have some faith in his knowledge of the insurance laws and requirements of the State of Connecticut.

What happens if Commissioner Googins were to leave

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office tomorrow? Are you equally pleased and happy with this language since it appears that your Committee relied on the personal representations of the Commissioner in giving this language. What happens if that is not the Commissioner? Are you equally confident, and if you are, why?

REP. BIAFORE: (125th)

Through you, Mr. Speaker. Yes, Sir, I am equally confident because this language, even though it was presented by the present Commissioner, it is language that was recommended, I understand, from the National Association of Insurance Commissioners to bring us in compliance so that we would get accreditation.

And I would think that because of that, I feel confident that it is okay.

REP. KRAWIECKI: (78th)

Thank you, Representative Biafore.

DEPUTY SPEAKER MARKHAM:

Will you remark further on the bill? Will you remark further? If not, staff and guests please come to the well of the House. Members take their seats. The machine will be opened.

CLERK:

The House of Representatives is voting by roll.

Members to the Chamber please. Members to the Chamber

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House of Representatives Wednesday, April 15, 1992

please. The House is voting by roll.

DEPUTY SPEAKER MARKHAM:

Have all members voted? Have all members voted?

Please check the roll call machine to see that your vote is properly cast. The machine will be locked.

The Clerk please take a tally.

Representative Thorp.

REP. THORP: (89th)

In the affirmative, please.

DEPUTY SPEAKER MARKHAM:

Representative Thorp cast his vote in the affirmative.

The Clerk please announce the tally.

CLERK:

House Bill 5190.

Total number voting 145

Necessary for passage 73

Those voting yea 145

Those voting nay 0

Those absent and not voting 6

DEPUTY SPEAKER MARKHAM:

The bill is adopted.

CLERK:

Page 3, Calendar 74, returning to Calendar 74,
Substitute for House Bill 5403, AN ACT CONCERNING

S-335

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1992

VOL. 35
PART 7
2245-2631

SATURDAY
May 2, 1992

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SENATOR O'LEARY:

Page 6, the first four items I'm going to move to the Consent Calendar. They are Calendar 331, Substitute for House Bill No. 5114; 332, Substitute for House Bill 5190; 333, Substitute for House Bill 5551; 334, Substitute for House Bill 5687, I move to the Consent Calendar.

THE CHAIR:

Is there any objection in moving Senate Calendar No. 331, Substitute for House Bill 5114 and Senate Calendar No. 332, Substitute for House Bill 5190 and Senate Calendar No. 333, Substitute for House Bill No. 5551 and Senate Calendar No. 334, Substitute for House Bill No. 5687 to the Consent Calendar? Is there any objection to any one or all of those being placed on the Consent Calendar? Any objection? Hearing none, so ordered.

SENATOR O'LEARY:

Calendar 335 is marked Go.

Page 7, Calendar 336 is marked Go. The remaining items on that page I'm going to move to the Consent Calendar, 337, Substitute for House Bill No. 5020; 338, Substitute for House Bill 5189; 339, House Bill 5464; Calendar 340, Substitute for House Bill 5784 and Calendar 341, House Bill 5801.

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Bill 5114. Calendar 332, Substitute for House Bill
5190. Calendar 333, Substitute for House Bill 5551.
Calendar 334, Substitute for House Bill 5687 and
Calendar No. 335, House Bill No. 5844.

Calendar Page 7, Calendar 337, Substitute for House
Bill 5020. Calendar 338, Substitute for House Bill
5189. Calendar 339, House Bill No. 56 -- correction --
339 is House Bill 5464.

Calendar Page 7, Calendar 340, Substitute for House
Bill 5784. Calendar 341, House Bill 5801.

Calendar Page 8, Calendar No. 342, House Bill 5826.
Calendar 343, House Bill 5892.

Calendar Page 10, Calendar No. 369, Substitute for
House Bill 5681.

Calendar Page 11, Calendar 371, House Bill 5718.
Calendar 374, Substitute for House Bill 5021.

Calendar Page 12, Calendar 377, Substitute for
House Bill 5654. Calendar 378, House Bill 5818.

Calendar Page -- that's it, Madam President, for the
first Consent Calendar, but I believe I may have called
one that should have been removed.

THE CHAIR:

There we go. We've got a little semblance of
something here that's pretty good I think.

THE CLERK:

SATURDAY
May 2, 1992

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Madam President, I believe the Consent Calendar, as I called it, is correct.

THE CHAIR:

Thank you very much. Does anybody have any objections? Senator DiBella. What is the item? You didn't tell me the item. Do you have an objection to something on the Consent Calendar, Senator DiBella? All right, is everybody okay now? All right. You have heard the items that have been placed on the Consent Calendar No. 1 for today, May 2, 1992. The machine is on. You may record your vote.

Senator Spellman. The Consent Calendar, sir. Thank you very much. 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.

Senator O'Leary.

SENATOR O'LEARY:

Thank you, Madam President. Madam President, I move to suspend to immediately transmit those items voted on today to the House.

JOINT
STANDING
COMMITTEE
HEARINGS

INSURANCE
AND
REAL ESTATE
PART 2
385-628

1992

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tcc INSURANCE AND REAL ESTATE

March 5, 1992
10:00 a.m.

PRESIDING CHAIRMEN: Senator Johnston
Representative Biafore

COMMITTEE MEMBERS PRESENT:

SENATORS: Case, DeLuca

REPRESENTATIVES: Fonfara, Schiessl,
Taborsak, Andrews,
Chase, Ferrari,
Metsopoulos, Bogue

REPRESENTATIVE BIAFORE: Good morning, everyone. I'd like to start today's public hearing. I apologize for being a few minutes late, but hopefully we can catch up. As usual, we will open up the hearing from our commissioner and so, commissioner, it's all yours.

COMMISSIONER ROBERT GOOGINS: Ah, it's been so long SB132 since my last testimony I forgot how to operate HB 5189 this machine. Just so there's no confusion since HB 5190 there appeared to be some confusion over Tuesday's hearing, I'm here today in the capacity of a sheep in wolf's clothing so that I know some people were confused as to the capacity I had on Tuesday.

I'm also going to limit my comments today to the bills that have been submitted by the department. I have no comment on the other proposals, so I'll be very briefly talking about five bills, the first of which is HB5188 dealing with Medicare Supplement.

As you are all aware, this is a creature of federal law, over 90, and the subsequent implementation pursuant to that directive by the NAIC of the model law which is what is before you to bring national uniformity to the Medicare Supplement business. Thirty states have already adopted the proposal that is before you. There is essentially for legislatures that meet every year a July 30 deadline for implementation this year. The consequences of Connecticut not proceeding with this model law is that the federal government would

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take over the regulation of Medicare Supplement, so our choice is either to continue regulation in Connecticut under the auspices of the Insurance Department or essentially forfeit it to HICVA.

This proposal has been coordinated with the Department of Aging. In the handout that you have in front of you we have suggested two very simple technical changes. One is simply one word. I should point out that because of the extreme deadline we're facing in terms of implementing this very important law, we're going to be proceeding at the department along three parallel tracks. One is trying to get the legislation that's before you enacted.

At the same time we're going to be filing the very lengthy implementing regulation even though the statute is not even enacted yet in seeking parallel treatment and we are going to be receiving from prospective writers of this business contracts that we are going to be willing to approve in advance contingent, of course, upon both the law and the regulation being adopted so that we will in fact be ready to serve to the seniors of Connecticut by the deadline at the end of July.

The second group of bills really that I want to address are SB132, HB5189 and HB5190. They have to do with the accreditation of the Insurance Department which we anticipate taking place in the fall of 1993. John Arsenault, who is here to my left, is the task force chairman of the Accreditation Task Force for the department and he has been living with what it's going to require for the department to become accredited by the NAIC.

We will probably have some minor cleanup next year, but these three bills that are before you that I've just mentioned are the core of the requirements that remain in terms of our getting accreditation. Although they are very, very lengthy bills, as you can see from your packages, the -- I believe by and large there's nothing really controversial in them although I think there are technical comments that we still have and that others may have.

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The first one dealing with the rehabilitation and liquidation laws simply for separate treatment the administrative supervision provisions from the rehabilitation and liquidation provisions adds detailed financial reporting requirements with respect to the reports made to the court, requires a plan of operation during an appeal from a liquidation order, provides for the coordination of efforts between the liquidator and the Guaranty Funds, provides protection for receivers when acting in their official capacity, provides for an advisory committee to the supervisor and clarifies the setoff rights where reinsurance is involved in a liquidation process and provides for certain modifications to the Holding Company Act. SB132

You will notice once again from the material that's passed in, the written comments that there are a series of mostly one word and minor technical changes. The centerpiece of this trilogy of accreditation provisions is the HB5189 dealing with financial regulation standards. It's designed to approve the department's financial surveillance and regulation of the industry, conforms the financial examination procedures to the NAIC model, codifies the existing requirement that statements submitted to us be consistent with the NAIC accounting practices, clarifies the authority to require surplus based upon the nature of the insurance company business as distinguished from the mere statutory minimum that of course are inadequate in virtually all cases, incorporates the NAIC model producer controlled insurer provisions, provides for the regulation of reinsurance intermediaries, and again, as noted in the written submission to you, there is one section that was omitted from this model and a few other minor changes that will be discussed with your staff.

The third piece and potentially controversial, but I believe there is no reason for it is the supplement which deals with the confidentiality of department work papers and reports. Quite frankly, this confidentiality provision simply makes explicit what is the current practice of the department. It cures the potential anomaly for the fact that there is protection with respect to these very same records if we engage in a regular HB5190

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examination, but if we engage in an off sequence examination, it is not clear that the same protection applies there, certainly before there is an actual supervision order.

Because there's always sensitivity in the legislature with respect to the issue of confidentiality, we have met with the Freedom of Information Commission's executive director and general counsel. We have fully reviewed what these proposals are, which frankly, are virtually identical to what exists currently in Connecticut for banks. The head of the Freedom of Information Commission has reviewed this, indicates that he has no problem with these at all and so I believe you can take a fair amount of comfort from that.

The real requirement here with respect to the issue of confidentiality is and why it's tied into accreditation, the accreditation process requires the department to create very significant audit trails with respect to analysis of companies and reports and interoffice communications that must be document and what we're simply seeking is the long time protection that we have assumed existed with respect to those types of reports.

The final provision in SB132. This deals with the revisions and technical changes in the law. It requires for hearings to be made available to insurers that may be aggrieved by decisions of the department. It adds to the number of people that have to appoint the Insurance Department as statutory agent for service of process. It eliminates the number of copies that sheriffs have to delivery to the department now, several of which we just throw out because there's absolutely no need for them.

At the auditor's request, based upon the last two audit reports, we're eliminating the assessment provisions with respect to medical service corporations and they don't exist anymore in Connecticut so this is a request of the auditor of the state. It makes certain terminology in statutes consistent with one another. It corrects a printing error that occurred in the actual printing of the statutes after enactment.

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REP. BIAFORE: Any questions? Senator Case.

SEN. CASE: Good morning, Commissioner.

COMMISSIONER ROBERT GOOGINS: Good morning.

SEN. CASE: It's nice to see you again.

COMMISSIONER ROBERT GOOGINS: It's very nice to be here.

SEN. CASE: Commissioner, is it essential that if we're going to act on the three bills that you commented on that we act on all of them?

COMMISSIONER ROBERT GOOGINS: All the -- well, there are five bills here, I assume you mean the three that relate to accreditation?

SEN. CASE: Yes, Raised SB132, HB5189 and HB5190.

COMMISSIONER ROBERT GOOGINS: It is my belief that they really are part of the overall network and fabric of bills that we need to achieve from accreditation, so my answer to that is yes.

If there were some major problem which you have with respect to any one of them, that we could sit down with you and explain, we'd be delighted to go through the history and the rationale as to why it's there.

SEN. CASE: I have some concerns about HB5190, the confidentiality and I wonder if you could explain perhaps in greater detail the essential purpose enacting this.

COMMISSIONER ROBERT GOOGINS: Okay, first I'd like to repeat that this, as to insurance companies, is actually less broad than the current state law with respect to banks in dealing with the same thing, the examination of the members that they regulate. So it is even less broad than banks.

The purpose with respect to the insurance business is the NAIC accreditation process says, look, not only do you have the -- have to have the tools in place, the laws and the powers so that you can

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properly regulate financial institutions, that's not sufficient. We want to see that you have in fact been doing it. When we come into, as part of the accreditation review, we're going to take random samples from your various examinations of insurers and go through them with great scrutiny with a CPA audit team to see whether you in fact are doing what the law requires you to do. A part of that process is traditionally if we were dealing with a company that we thought was underreserved or was starting to get in shaky financial condition we might well have the examiner go in and talk to the chief of the audit of the section or the chief of the Examination Division and sit down orally and say, look, in reviewing the financial statement and analysis, we think we've got a problem here and that would be taken care of in terms of calling the company in, asking for a new plan of operation, trying to get them to have new capital, but much of that in the past was oral. You can't do anymore with respect to the accreditation process.

They're going to come in and want to see that that financial analyst put in writing to the chief of the section that the chief of the section put his recommendations to the head of the financial examination in detailing this. All information, which if it became available to the public, would be a self-fulfilling prophecy and cause exactly what it is that we're trying not to have happen and that is a run on the bank, a loss of public confidence before as a regulator we can take care of the issue.

So that's the reason. We're required now as a part of the accreditation process to document thoroughly what it is that previously may have done more informally and orally and to -- we simply need to accord to those internal documents, the internal working papers in that analysis the same confidentiality that would exist if we were conducting a formal examination of that department in terms of the triannual exam that we do in which case they would be protected. So that's the reason and that's why because of this sensitivity we reviewed this thoroughly, the existing statutes, the models with the Freedom of Information

Commission and they called us and indicated that after our discussions, their own independent review, they do not have a problem with these proposals.

SEN. CASE: Where we talked about, unless otherwise a matter of public record, are we using that in the context of as it's defined under the Freedom of Information Act? Are we using that in the context of these are words of art that someone could look to from precedents?

COMMISSIONER ROBERT GOOGINS: Let me have John address that point.

JOHN ARSENAULT: I'm John Arsenault. We used those words because they currently exist in the law in the form of the statute in the banking law of Connecticut, Section 36-16 of the Connecticut General Statutes. It is our intention and in drafting the proposal to have our proposal more narrowly drafted than the banking commissioner's statute to relate to only financial related documents. The law doesn't apply to other documents. We have a number of records that have always been available for public inspection. What this bill will do and an important point to remember is passage of this bill will not change the status of any records we have in the files of the Insurance Department.

As the commissioner noted, it's going to have its real effect in terms of the new types of documents and reports we will need to be preparing in the future that we could argue would be exempt from disclosure, but we feel it's prudent that we have a statute like the banking commissioner's statute that makes it clear that with respect to our internal financial operating condition reports that we will develop for NAIC accreditation that this statute will apply.

SEN. CASE: Has there been any occasion to your knowledge where those words are a matter of public record as it was defined in the banking section which you've just made reference to have been interpreted by anyone, by a court here in Connecticut?

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JOHN ARSENAULT: I have no knowledge on that point. For example, though, annual financial statements, quarterly reports, we contain in our files reports filed with the SEC, 10k's, 10q's, matters like that, examination reports that we file after -- if they're all concluded, those are items of public record and we have no intention to change our practices at all.

What is available currently will continue with this statute.

SEN. CASE: I guess I'm getting the hint that if and when this matter gets to either the House or the Senate that there ought to be some clarification for legislative intent that these words "public record" are being interpreted in roughly the same manner as they are under the banking section so that there'll be no misimpression as to how they're to apply.

Now I want to ask one other question. Commissioner, are you satisfied with the amount of discretion that you're being left with in terms of what you feel you have to disclose or don't have to disclose and are these words in HB5190 words that are in some other statute that is received from some other state?

COMMISSIONER ROBERT GOOGINS: I don't -- we didn't copy this from the laws of any other state, so as far as that's concerned, it's not modeled after that. We took it after the sister law, with respect to financial institutions regulating Connecticut by the Banking Department. As I say, we're not intending this to change our current attitude procedures as to what we would make available today, but because we're going to have to document much more for accreditation than what we had in the past.

We need to know that those records are not going to be self-defeating in terms of having to be made a public record and create the problem that we are trying to solve at the very same time.

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REP. METSOPOULOS: Commissioner -- excuse me, Representative Metsopoulos. Last week, maybe it wasn't even last week, anyways, days kind of get pushed together, we heard on SB203, which was to allow loss ratios and a policy loss to be made public record. In this bill here we're talking about confidentiality. Could one, if they wanted to, use that law we're going to put into effect to in essence withhold the information that you currently say you can make available without SB203? (SB206)

COMMISSIONER ROBERT GOOGINS: The HB5190 has solely to do with the financial examination of the Examination Division, issues with respect to loss ratios and data with respect to supporting a rate claim by life and health would not be affected by this.

REP. METSOPOULOS: Thank you.

REP. BIAFORE: Any other questions?

SEN. JOHNSTON: Commissioner, we've spoken with counsel about some of these bills and obviously some of them are used as model language that, you know, have taken from NAIC and we understand the importance of them. Can I suggest that you and John sit down with our counsel to talk over some of the technical issues?

COMMISSIONER ROBERT GOOGINS: Absolutely. We intend to do that, Mr. Chairman.

SEN. JOHNSTON: I have a lot more faith in all of you attorneys doing that than some of us --. Thank you.

REP. BIAFORE: Any other questions? Thank you. Next we have a former representative -- well, she's a commissioner now, but she's a former member of this committee. Edith Prague. We have the former vice chair of the Insurance Committee and now present commissioner Edith Prague.

COMMISSIONER EDITH PRAGUE: And I have many pleasant memories of being a member of this committee.

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I do have some information on inpatient rates and the cost of care. Thank you.

SEN. JOHNSTON: Are there questions from members of the committee? If not, thank you very much.

CAROL O'CONNOR: Thank you. Don Roll followed by Emily Smith.

DON ROLL: Thank you very much, Senator Johnston. Members of the Committee, it's a pleasure to be with you again this afternoon. My name is Don Roll. I represent Blue Cross and Blue Shield of Indiana -- Connecticut. I did it again. Walking up here I said I'm not going to do that, but I did it again. Blue Cross and Blue Shield of Connecticut.

SB 132
HB 5189
HB 5190

I'm here to testify on I guess five bills today. The first of those will be SB322, AN ACT CONCERNING EXTENDING CONTINUATION OF BENEFITS COVERAGE FOR THE UNEMPLOYED. We do oppose that bill primarily it doesn't have a much direct effect on the insurance company. The direct effect is on the employers of the State of Connecticut.

We are concerned, though, about the extra costs on those employers and what that does to the business climate here in Connecticut. So we oppose that bill for those reasons.

The second bill I want to speak to is HB5188, AN ACT CONCERNING MEDICARE SUPPLEMENT INSURANCE. As explained to you by Commissioner Googins earlier today, this bill is critical to the State of Connecticut. If a bill of this sort is not passed as of July 30 no insurance company in Connecticut can continue to write Medicare Supplement Insurance for new business so it's extremely important that this bill be based and that the regulations move forward.

In my written testimony I make some reference to some technical questions we have. Most of those have been overcome by the commissioner's speech -- talk this morning where he explained that they're moving forward on three parallel tracks and moving forward with the regulations actually in

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anticipation of the passage of the law. We really think that most of our concern in that area will be solved by going that way and we strongly urge you to adopt HB5188.

The other three bills I want to speak very briefly to are the three bills dealing with accreditation of the department, those being SB132 and HB5189 and HB5190. We do support all three of those bills. We think they're good public policy and having the department accredited will be a good thing for the state.

With that, I'll end my testimony and if there's any questions, I'd be happy to respond.

SEN. JOHNSTON: Representative Metsopoulos.

REP. METSOPOULOS: Were you here for Commissioner Prague's testimony?

HB 5188

DON ROLL: Yes, sir, I was.

REP. METSOPOULOS: Where she made reference to the fact that if you offer this, you should be -- if you offer "x" policy, you should offer the same policy to the disabled?

DON ROLL: Yes, sir, I was.

REP. METSOPOULOS: Okay. Then you must be here for my question. How do you feel about that and do you believe -- how do you feel about that?

DON ROLL: Well, as Commissioner Prague indicated, our company does write insurance for those people who are eligible for Medicare because of disability as well as those who are eligible for Medicare because of age.

So, obviously, I guess, our company think that that's a good idea. I don't know that we necessarily think that it's a good idea to require all companies to do that. It's I guess the same kind of a philosophy that we get into when we talk about state mandates as well and that is simply that we feel very strongly that the best way to

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REP. FERRARI: And are these reimbursed? Are the costs reimbursed by third party people?

DR. ERVIN L. BETTS: Well, we've been asked by the -- it's been our interpretation of the law that we have to be present while the services are being delivered and we don't like to have to request insurance companies to cover any kind of treatment process where we have not been present to actually see it happen.

REP. FERRARI: Okay, well, thank you very much.

DR. ERVIN L. BETTS: Sure.

REP. BIAFORE: Just for your information, you do realize that the Section 38a-5114 where they're putting in the family and marriage therapists is the same as the one for social work?

DR. ERVIN L. BETTS: There's some difference in the way the wording is made, as I understand, in that there's no limitations here. They're asking that benefits be paid for services of a licensed physician or psychologist. Now that's pretty broad. That could mean anything that a physician or a psychologist does, they would seek the same kind of reimbursement and I'm concerned that that's awfully broad.

REP. BIAFORE: Thank you.

DR. ERVIN L. BETTS: Thank you.

REP. BIAFORE: Bob Kehmna.

ROBERT KEHMNA: Thank you, Mr. Chairman and members of the committee. My name is Bob Kehmna. I'm general counsel to the Insurance Association of Connecticut.

SB 314
HB 5591

First, I would like to express our support very briefly to the bills brought before you today by the Insurance Department, specifically SB132, SB133, HB5188 and HB5189 and HB5190. As to three of the bills, though, we have some short comments.

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BETSY GARA: No, they would

REP. BIAFORE: Well, if COBRA was extended for an additional eighteen months, than if the policy that they were, their employer was paying the thirty five hundred, they would pay that for an additional eighteen months.

BETSY GARA: Right.

REP. BIAFORE: Plus the two percent.

BETSY GARA: Plus the two, yeah.

REP. BIAFORE: But if they didn't, if the law didn't pass, they would than have to pay probably eight thousand.

BETSY GARA: Well that is a consideration. I think

REP. BIAFORE: It would be cheaper for them to stay (inaudible) than it would be to go on an individual policy that's what I'm saying.

BETSY GARA: Arguably, yeah.

REP. BIAFORE: Yeah, okay.

REP. BIAFORE: Jay Jackson.

JAY JACKSON: Good afternoon, my name is Jay W. Jackson and I'm representing the National Association of Independent Insurers and I want to say good afternoon to Representative Biafore and Senator Johnston and those members of the committee who are here. The NAII is a National Association representing five hundred and sixty insurance companies throughout the United States. However, in Connecticut, you should be aware that over fifty of those companies write over twenty five percent of the automobile business in the State of Connecticut, and they do a significant amount of other business in the State of Connecticut.

We want to compliment Commissioner Googins and (inaudible) staff for the fine work that they have done in putting together the package of solvency Bills SB132, SB133, HB5190 and in particular

HB 5189

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INSURANCE AND REAL ESTATE

March 5, 1992

HB5189. There are just a couple of very minor points which I'd like to call to the committee's attention. In HB5189, on Page 36, it talks about the lesser of three percent of the insurance companies admitted assets or twenty five percent of surplus as regards policyholders. It is our understanding that the NAIC, which originally came up with these percentages, is reassessing these figures, and they may modify them or change them or eliminate them completely. If this were to occur, we would ask you to then make appropriate adjustments in our law.

There are also a few other minor points which I spoke to the commissioner and his staff about, and we would hope that we would be able to get some input into the minor, technical changes which are being prepared for your consideration. But, on the whole, we feel that the Bills that have been presented that are very important to the State of Connecticut, and we urge their adoption, with out without the fine tuning modifications.

REP. BIAFORE: Thank you Jay. If there are those any recommended changes if you could put them in writing, and give them to the commissioner or our staff, I'm sure we would look them over. On your first point, we have to wait and see if there are changes in the, you know, before we can make any changes if there are, we probably could do it next year.

JAY JACKSON: Thank you. But I just want to call it to your attention that there is this, this question is be revisited, and we wouldn't want you to feel that this is something that should be locked in concrete for the eternity.

REP. BIAFORE: We know that (inaudible).

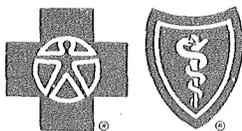
JAY JACKSON: Thank you very much.

REP. BIAFORE: John Mattas.

JOHN MATTAS: Good afternoon Chairman and committee members. I'm John Mattas, I'm an Attorney for the Association of Child Caring Agencies, and as a member agency, we're in the business of serving children and families throughout the State of

HB5587

**Blue Cross
Blue Shield**
of Connecticut



000563

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March 5, 1992

**Statement
of
Blue Cross and Blue Shield of Connecticut
Regarding
Raised H.B. 5190 An Act Concerning Confidentiality of
Insurance Department Financial Workpapers, Operating and
Condition Reports**

Good afternoon, Senator Johnston, Representative Biafore and members of the Committee. My name is Donald L Roll, and I represent Blue Cross and Blue Shield of Connecticut. I appear before you this afternoon to speak in favor of raised H.B. 5190.

This bill would clarify the right of the Commissioner to withhold from public scrutiny certain financial workpapers, analysis, operating and financial condition reports concerning insurers. We believe that this is good public policy for the State of Connecticut and should be enacted. In the absence of this clarification some would argue that these workpapers should be available for inspection, which we believe could lead to the release of competitive information that should be treated as trade secrets, and be detrimental to the financial health of some insurance companies, and to the industry as a whole.

The workpapers of Department of Insurance examiners may make reference to a wide range of information about insurers strategies, and details of financial and investment matters that would be useful to a competitor and which would normally be treated as trade secrets. We believe it is important to clarify that these matters are confidential.

In like manner, it is conceivable that when taken out of context, or when read by untrained people, the raw data contained in these workpapers, if published or otherwise disseminated, could start a "run on the bank." This sort of reaction has been known to imperil the financial solvency of very sound companies and should be avoided at all costs.

For this reason we ask you to favorably report H.B. 5190.

Thank you, I will be happy to answer any questions you might have.
5190test

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STATEMENT OF
INSURANCE ASSOCIATION OF CONNECTICUT
BEFORE THE INSURANCE AND REAL ESTATE COMMITTEE
REGARDING HB 5190
THURSDAY, MARCH 5, 1992

The Insurance Association of Connecticut supports HB 5190, An Act Concerning Confidentiality of Insurance Department Financial Workpapers, Operating and Condition Reports.

Financial regulation of insurance companies is one of the most important responsibilities of the insurance department. The commissioner has various statutory tools to monitor insurers' financial health and address problems which may arise. Recently the General Assembly has added to those authorities, and you are considering additional legislation today. It would be counterproductive to the goal of those statutes, that being to promote the continued viability of insurers and therefore the interests of their policyholders, to release to the public this information which may be misunderstood or misused and thereby raise the possibility of a "run on the bank" which, to everyone's detriment, could cause an insurer to be forced unnecessarily into financial jeopardy.

HB 5190 provides for confidentiality authority in accordance with other sections in the insurance statutes (for example, C.G.S. 38a-913). We believe this bill complements the intent of the state's financial regulation standards, and we request that it be given favorable consideration.



STATE OF CONNECTICUT
INSURANCE DEPARTMENT

By 3-5-92
Bill No. 65

Rep. 1A
Sen. 1E

Insurance and Real Estate Committee
March 5, 1992

Raised Bill 5190: An Act Concerning Confidentiality of Insurance Department Workpapers, Operating and Condition Reports.

Raised Bill No. 5190 is a legislative proposal of the Insurance Department. It is proposed to advance the Department's goal of obtaining accreditation by the National Association of Insurance Commissioners as meeting minimum standards for financial regulation.

The Insurance Department presently has broad authority under several insurance statutes to withhold from public inspection a variety of documents relating to the financial condition or operation of insurers and HMOs. Raised Bill 5190 will not create a new exemption from public disclosure of financial documents currently produced or retained by the Insurance Department. Rather, this bill will make explicit the Department's authority under current law to withhold from public inspection such documents, and, most important, financial analysis and operating/financial condition reports that will be prepared in the future by Insurance Department staff under new procedures the Department expects to adopt as it prepares to become accredited by the NAIC.

Among the NAIC minimum financial regulation standards, the Insurance Department practices and procedures will need to be revised to substantially increase the breadth and depth of documentation reflecting each step in the Department's internal financial analysis process, and each level of supervisory review and reporting within the Department.

Although the Insurance Department believes current statutory exemptions provides the legal basis to withhold from public inspection the records we currently need to retain as non-public records so as to regulate for financial solvency, it is less than crystal clear that current law will also exempt from disclosure the extensive written documentation of internal financial analysis the Department will need to develop for NAIC accreditation purposes. Raised Bill 5190 will make explicit that such documents will remain exempt from public disclosure and will correct the anomaly that exists under current law which makes all documents in the possession of the Department confidential and exempt from disclosure

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which relate to an insurer placed under an Order of Supervision by the Insurance Commissioner. The anomaly is that there exists no statutory exemption in the insurance statutes that explicitly exempts from disclosure documents relating to the Department's written financial analysis of an insurer or HMO conducted outside of the Department's regularly scheduled financial examination, unless or until an Order of Supervision is entered by the Commissioner against the company found to be in a hazardous financial condition. (See Conn. Gen. Stat. § 38a-913).

000566

Such a provision is intended to give the insurer the ability to correct its financially hazardous condition by complying with certain directives imposed on it by the Commissioner without causing public panic which would undermine such corrective measures (and perhaps in some cases lead to its financial failure). However, the lack of a similar provision explicitly exempting operating condition reports prepared by the Department's financial analysis staff, if disclosed, could be damaging to even financially sound insurers and HMOs.

In developing Raised Bill 5190, the Department based its text on a statute that currently exists for the Department of Banking (Conn. Gen. Stat. § 36-16) except this bill is a more narrowly drafted version.

Because of the sensitivity of legislation on confidentiality of public records, the Insurance Department has been in communication with the Executive Director and General Counsel of the State Freedom of Information Commission on the Department's legislative proposals. (Raised Bills 132, 5189 and 5190). The result of this is that he understands the significance of this legislation, the fact that it is needed, that it will not take away from the public access to records that they currently have access to, and, therefore, does not have any objection to it.

We therefore request that you give this legislation your favorable consideration.