

Legislative History for Connecticut Act

HB 5614	(PA 214)	1998
House	910-911, 1406, 2151-2157, 4086-4090	(15)
Senate	2074-2078, 2114-2117	(9)
Insurance	204-205, 241, 242, 245, 337-345	(14)
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CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
1998

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PART 3  
678-1059

000910

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House of Representatives

Wednesday, April 8, 1998

SPEAKER RITTER:

So ordered.

Clerk, please call Calendar 206.

CLERK:

On page 9, Calendar 206, Substitute for House Bill  
Number 5420, AN ACT ENSURING THE SAFETY OF HIGHWAY WORK  
AREAS. Favorable Report of the Committee on  
Transportation.

SPEAKER RITTER:

The Honorable Representative Stillman.

REP. STILLMAN: (38TH)

Thank you, Mr. Speaker. I move that that be  
referred to the Energy and Technology Committee.

SPEAKER RITTER:

So ordered.

Clerk, please call Calendar 207.

CLERK:

On page 9, Calendar 207, Substitute for House Bill  
Number 5614, AN ACT CONCERNING THE INSURERS  
REHABILITATION AND LIQUIDATION ACT. Favorable Report  
of the Committee on Insurance.

SPEAKER RITTER:

Representative Stillman.

REP. STILLMAN: (38TH)

Thank you, Mr. Speaker. I move that that be

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House of Representatives

Wednesday, April 8, 1998

referred to the Judiciary Committee.

SPEAKER RITTER:

So ordered.

Clerk, please call Calendar 208.

CLERK:

On page 9, Calendar 208, Substitute for House Bill  
Number 5597, AN ACT CONCERNING CAR DEALERSHIPS.

Favorable Report of the Committee on Transportation.

SPEAKER RITTER:

Representative Stillman.

REP. STILLMAN: (38TH)

Thank you, Mr. Speaker. I move that that be  
referred to the Committee on General Law.

SPEAKER RITTER:

So ordered.

Clerk, please call Calendar 209.

CLERK:

On page 10, Calendar 209, Substitute for House  
Bill Number 5589, AN ACT CONCERNING THE SITING OF PCS  
AND CELLULAR COMMUNICATIONS TOWERS. Favorable Report  
of the Committee on Planning and Development.

SPEAKER RITTER:

We had to wait for the Majority Leader to leave  
before we could do this one. Representative Stillman.

REP. STILLMAN: (38TH)

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001406  
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House of Representatives

April 17, 1998

Committee on Appropriations H.B. No. 5054, Committee on  
Judiciary H.B. No. 5724, Committee on Planning and  
Development H.B. No. 5535, Committee on Judiciary H.B.  
No. 5709, Committee on Appropriations H.B. No. 5404,  
Committee on Appropriations H.B. No. 5437, Committee on  
Government Administration and Elections H.B. No. 5332,  
Committee on Planning and Development H.B. No. 5679,  
Committee on Public Safety H.B. No. 5635, Committee on  
Planning and Development H.B. No. 5747, Committee on  
Government Administration and Elections H.B. No. 5614,  
Committee on Judiciary H.B. No. 5597, Committee on  
Government Administration and Elections H.B. No. 5593,  
Committee on Planning and Development H.B. No. 5551.

SPEAKER GERAGOSIAN:

Hearing no objection, so ordered.

THE CLERK:

Mr. Speaker, there's no further business on the Clerk's desk.

SPEAKER GERAGOSIAN:

Representative Fleischmann of the 18th District.

REPRESENTATIVE FLEISCHMANN: (18th)

Mr. Speaker, there being no further business on the Clerk's desk, I move that we adjourn subject to the Call of the Chair.

SPEAKER GERAGOSIAN:

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House of Representatives

Monday, April 27, 1998

Those voting Yea	142
Those voting Nay	0
Those absent and not voting	9

SPEAKER RITTER:

Bill passes, Clerk please call Calendar 207.

CLERK:

On page twenty-four, Calendar 207, Substitute for House Bill No. 5614. AN ACT CONCERNING THE INSURERS REHABILITATION AND LIQUIDATION ACT. Favorable report of the Committee on Government, Administration and Elections.

SPEAKER RITTER:

The Honorable Representative from North Haven, right?

REP. FONTANA: (87th)

Yes sir, Mr. Speaker, thank you very much Mr. Speaker.

SPEAKER RITTER:

You have the floor.

REP. FONTANA: (87th)

Mr. Speaker I move for acceptance of the Joint Committee's favorable report and passage of the bill.

SPEAKER RITTER:

Motion on acceptance and passage, please proceed sir.

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House of Representatives

Monday, April 27, 1998

REP. FONTANA: (87th)

Thank you Mr. Speaker. Mr. Speaker, this bill amends our insurers rehabilitation and liquidation act to conform to revisions made to the NAIC's model Insurers Rehabilitation and Liquidation Act. It allows the state's insurance commissioner to act as receiver for insurance companies facing insolvency and creates procedures for court supervised delinquency proceedings instituted to liquidate, rehabilitate, reorganize or conserve an insurance company.

This bill makes the administration of receivership of an insolvent insurer more efficient and more responsive to the needs of policy holders and other creditors by updating our statutes to reflect improved methods for rehabilitating insurers. Specifically Mr. Speaker, the bill makes several changes.

First it expands the scope of the act to apply to all people and entities subject to examination by the Insurance Commissioner to all people and entities conducting insurance business in the state and to workers' compensation self-insured groups.

Second, it provides for an automatic stay and gives exclusive jurisdiction to the court in the state of domicile or a financially impaired insurer. Third, it allows for the introduction into evidence of an

insolvent insurer's books and records but limits their disclosure.

Fourth, it allows the Insurance Commissioner to ask the court to appoint a single judge to supervise certain proceedings and requires that appeals from a rehabilitation order or plan be heard on an expedited basis. Fifth, it gives rehabilitators and the Insurance Commissioner added authority to regulate the rehabilitation of insolvent insurers.

Sixth, it gives liquidators the authority to make certain payments and certain other discretionary powers. Seventh, it expands the notice requirement when the insurance commissioner is appointed receiver for an insurer domiciled in another state.

Eighth, it allows a receiver to recover certain distributions, premiums and fees. Ninth, it allows the filing of filing of contingent, unliquidated or immature claims and lets them share in the distribution of an insolvent insurer's estate. Tenth, it protects contractual rights of participants in certain agreements.

Eleventh, it alters the priority of payment of claims against an insolvent insurer's estate. Finally, the bill expands the instances in which a reinsurers direct payment releases his obligation to the insurer

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House of Representatives

Monday, April 27, 1998

and adds reinsurance contracts and surety bonds to the list of policies and contract that cannot continue after a liquidation order.

It specifies when a third part claim must be filed and who it covers. The bill also changes some procedures involving disputed claims, allows liquidators to make certain proposals to the court, and establishes an alternative to unclaimed funds. Last, the bill repeals certain obsolete statutes and makes several minor and technical changes.

SPEAKER RITTER:

Thank you sir, for that thorough explanation.

REP. FONTANA: (87th)

Mr. Speaker, the Clerk has an amendment, LCO 4191. I ask that he call the amendment and that I receive permission to summarize.

SPEAKER RITTER:

Clerk has LCO 4191, if he may call and Representative Fontana would like to summarize.

CLERK:

LCO 4191, House "A" offered by Representative Amann, etal.

SPEAKER RITTER:

Representative Fontana.

REP. FONTANA: (87th)

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House of Representatives

Monday, April 27, 1998

Mr. Speaker, this amendment removes provisions that exclude one, punitive or exemplary damages, two.

SPEAKER RITTER:

Wait one second. The Chamber should stand at ease, apparently the amendment is not distributed.

DEPUTY SPEAKER HYSLOP:

Representative Fontana.

REP. FONTANA: (87th)

Thank you Mr. Speaker. Mr. Speaker the amendment removes provisions that exclude 1) punitive or exemplary damages, 2) tort claims against an insurer and 3) claims against an insurer for bad faith or wrongful settlement practices from Class III governing the priority of distribution of claims. It is minor in nature and I move it's adoption.

DEPUTY SPEAKER HYSLOP:

Question is on adoption of House "A" will you remark on House "A"? If not we'll try your minds. All those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER HYSLOP:

Those opposed no. Ayes have it House "A" is  
adopted. Will you remark further on the bill as amended?

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House of Representatives

Monday, April 27, 1998

REP. FONTANA: (87th)

Mr. Speaker, I move passage of the bill as amended.

DEPUTY SPEAKER HYSLOP:

Question is on passage of the bill as amended. Will you remark on the bill as amended? Will you remark on the bill as amended? If not, staff and guests come to the well of the House, the machine will be open.

CLERK:

The House of Representatives is voting by roll call members to the Chamber. The House is voting by roll call, members to the Chamber please.

DEPUTY SPEAKER HYSLOP:

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

CLERK:

House Bill No. 5614 as amended by House "A."

Total Number Voting 145

Necessary for Passage 73

Those voting Yea 145

Those voting Nay 0

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House of Representatives

Monday, April 27, 1998

Those absent and not voting 6

DEPUTY SPEAKER HYSLOP:

Bill as amended passes. Clerk please call  
Calendar 469.

CLERK:

On page nineteen, Calendar 469, substitute for  
Senate Bill 466. AN ACT CONCERNING SOUP KITCHENS AND  
PERSON WHO SERVE MEALS TO SENIOR CITIZENS AT CONGREGATE  
MEAL SITES OR FOR NONPROFIT ORGANIZATIONS, as amended  
by Senate Amendment Schedule "A." Favorable report of  
the Committee on Public Health.

DEPUTY SPEAKER HYSLOP:

Representative Keeley.

REP. KEELEY: (125th)

Thank you Mr. Speaker. Mr. Speaker, I move the  
acceptance of the Committee's favorable report and  
passage of the bill in concurrence with the Senate.

DEPUTY SPEAKER HYSLOP:

Question is on acceptance and passage of the bill  
in concurrence with the Senate, will you remark?

REP. KEELEY: (125th)

Thank you Mr. Speaker. Mr. Speaker, the bill  
exempts soup kitchen owners and operators from any  
Department of Public Health regulations requiring them  
to employ a qualified food operator and to provide

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House of Representatives

Monday, May 4, 1998

It's an annual trip every year to the Capitol in Hartford and as I understand, Mrs. Ritchie has informed that you are embarking on a study of the State of Connecticut and its legislative process and there's probably no better way to have an introduction than to spend some time here at the Capitol.

So, we welcome you to our Chamber and hope that you have found it to be a very instructive day.

And if the Chamber share in greeting them. Thank you.

Will the Clerk please return to the Call of the Calendar, Calendar 170. If the Clerk will please call Calendar 207.

CLERK:

On page 30, Calendar 207, Substitute for House Bill Number 5614, AN ACT CONCERNING THE INSURERS REHABILITATION AND LIQUIDATION ACT, as amended by House Amendment Schedule "A". Favorable Report of the Committee on Government Administration and Elections. The Senate adopted Senate Amendment Schedule "A" and Senate Amendment Schedule "B" on May 1st.

DEPUTY SPEAKER HARTLEY:

Representative Fontana. You have the floor, sir.

REP. FONTANA: (87TH)

Thank you. Madam Speaker, I move acceptance of

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House of Representatives

Monday, May 4, 1998

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

DEPUTY SPEAKER HARTLEY:

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

REP. FONTANA: (87TH)

Thank you, Madam Speaker. Madam Speaker, this bill passed the House on April 27th. The Senate passed this bill on May 1st with Senate Amendments "A" and "B".

I would therefore like to ask the Clerk to call an amendment, LCO 5352. I ask that he call the amendment and that I receive permission to summarize.

DEPUTY SPEAKER HARTLEY:

The Clerk is in possession of LCO 5352, previously designated Senate Amendment "A". Will the Clerk please call?

CLERK:

LCO Number 5352, Senate "A" offered by Senator Sullivan, et al.

DEPUTY SPEAKER HARTLEY:

Representative Fontana has asked leave to summarize. Please proceed, sir, without objection.

REP. FONTANA: (87TH)

Thank you, Madam Speaker. Madam Speaker, this amendment removes a reference in section 2 of the bill

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House of Representatives

Monday, May 4, 1998

to workers' compensation self insurance groups. It is minor in nature and I move its adoption.

DEPUTY SPEAKER HARTLEY:

The question is adoption of Senate Amendment "A". Will you remark? Will the Chamber please stand at ease until everyone is in possession of Senate Amendment "A"?

Will the Chamber please come to order? Will you remark further on Senate Amendment "A"? If not, I will try your minds.

All those in favor, signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER HARTLEY:

Those opposed, no. The ayes have it. The amendment is adopted.

Will you remark further on the bill, as amended?

Representative Fontana.

REP. FONTANA: (87TH)

Thank you, Madam Speaker. Madam Speaker, the Clerk has an amendment, LCO 3709. I ask that he call the amendment and that I receive permission to summarize.

DEPUTY SPEAKER HARTLEY:

The Clerk is in possession of LCO 3709, previously designated Senate Amendment "B". Will the Clerk please

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Monday, May 4, 1998

call?

CLERK:

LCO Number 3709, Senate "B" offered by Senator  
Bozek.

DEPUTY SPEAKER HARTLEY:

Representative Fontana, you have the floor, sir.

REP. FONTANA: (87TH)

Thank you, Madam Speaker. Madam Speaker, this amendment corrects a typographical error contained in section 23a of the bill at line 1784 by changing the word "undisturbed" to the word "undistributed". It is technical in nature and I move its adoption.

DEPUTY SPEAKER HARTLEY:

The question is adoption of Senate "B". Will you remark? Will you remark further on Senate Amendment "B"? If not, I will try your minds.

All those in favor, signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER HARTLEY:

Those opposed, no. The ayes have it. The amendment is adopted.

Will you remark further on the bill, as amended? If not, staff and guests, come to the Well. Members, take your seat. The machine will be opened.

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House of Representatives

Monday, May 4, 1998

CLERK:

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

DEPUTY SPEAKER HARTLEY:

Have all the members voted? Is your vote properly recorded? After Representative Winkler votes, the machine will be locked.

The Clerk will please take a tally.

The Clerk will please announce the tally.

CLERK:

House Bill Number 5614, as amended by House Amendment Schedule "A" and Senate Amendment Schedules "A" and "B" in concurrence with the Senate

Total Number Voting	141
Necessary for Passage	71
Those voting Yea	140
Those voting Nay	1
Those absent and not voting	10

DEPUTY SPEAKER HARTLEY:

The bill, as amended is passed.

Will the Clerk please return to the Call of the Calendar, Calendar 180.

CLERK:

On page 22, Calendar 180, Substitute for House

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CONNECTICUT  
GEN. ASSEMBLY  
SENATE

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Senate

Friday, May 1, 1998

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Motion is to refer this item to the Consent  
Calendar. Without objection, so ordered,

THE CLERK:

Calendar No. 413, File No. 228 and 634.

Substitute for HB5614, AN ACT CONCERNING THE INSURERS  
REHABILITATION AND LIQUIDATION ACT. As amended by  
House Amendment Schedule A. Favorable report of the  
Committees on Insurance, Judiciary, Government  
Administration and Elections. And the Clerk is in  
possession of two Amendments.

THE CHAIR:

Senator Bozek.

SEN. BOZEK:

Madam President, I'd like to call -- let me, with  
the Joint Committee's favorable report and passage of  
the House, move adoption of the bill.

THE CHAIR:

Question is on passage of the bill in concurrence  
with the House.

SEN. BOZEK:

Madam President, I have a, one Amendment that I'd  
to call, 5352.

THE CLERK:

LCO-5352, which will be designated Senate  
Amendment Schedule A. It is offered by Senator Bozek

of the 6th District, et al.

THE CHAIR:

Senator Bozek.

SEN. BOZEK:

Madam President, stand fast one second, please.

Let me get the Amendment out. Madam President --

THE CHAIR:

Senator Bozek.

SEN. BOZEK:

This Amendment to the act in Line 65, strike the opening bracket strike "and" and insert a period after "centers." Strike line 66 and 67 entirety, which takes out the worker -- it eliminates the worker, in this particular bill a work -- it eliminates the workers' compensation self-insured groups out of the bill. And I move for its adoption.

THE CHAIR:

Question is on adoption? Will you remark? Will you remark? If not, I'll try your minds. All those in favor indicate by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed nay? Aye's have it. Senate A is adopted.  
Will you remark further on the bill as amended?

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Senate

Friday, May 1, 1998

002076

Senator Bozek.

SEN. BOZEK:

Yes, Madam President, I'd like to call bill, LCO-3709.

THE CLERK:

LCO-3709, which will be designated Senate Amendment Schedule B. It is offered by Senator Bozek of the 6th District.

THE CHAIR:

Senator Bozek.

SEN. BOZEK:

Madam President, may we stand at ease for a minute?

THE CHAIR:

Chamber will stand at ease for a moment.

SEN. BOZEK:

Madam President?

THE CHAIR:

Senator Bozek.

SEN. BOZEK:

Thank you. I thought I had all these ducks in order here before. The just don't add up. This is basically a technical Amendment. In Line 1783 we strike "undisturbed" and insert "undistributed." It's a typo. And I move for its adoption.

THE CHAIR:

Question is on adoption. Will you remark? Will  
you remark? If not, I'll try your minds. All those in  
favor indicate by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed nay? Aye's have it. Senate B is adopted.  
Will you remark further on the bill as amended?

Senator Bozek.

SEN. BOZEK:

Madam President, thank you. Madam President, this bill, this act allows the State Insurance Commissioner to be receiver for insurance companies that are facing insolvency. And it sets procedures for the court supervised delinquency proceedings.

This particular bill has been worked on over three years by the Insurance Department, along with the National Association of Insurance Commissioners. And if I just might stretch this out a little further, yeah we want to move along to get to 6:00 o'clock.

But the seriousness of this area here where the Insurance Commissioner becomes receivership, just keep in mind that in 1992, there was a tornado and hurricane down in Homestead, Florida, which I have pictures of

cause I was there. One of the -- there was twelve insurance companies that went out of business as a result of that. And one of them was from the State of Connecticut, which was -- had been formed in 1812.

So there's a number of other areas that insurance companies have lost business in. And it's a \$300 billion industry area is insurance commissioners are looking at, taking a serious look in this area. And this particular additional expanded legislation allows our State Commissioner to work in concurrence with other states, the industry, and protect the businesses that are in the State of Connecticut. I urge its adoption.

THE CHAIR:

Question is on passage of the bill as amended.  
Will you remark further? Senator Bozek.

SEN. BOZEK:

Madam President, being no objection, I move it to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

THE CHAIR:

Calendar Page 10, Calendar No. 414, File No. 157 and 635, HB5460, AN ACT CONCERNING A MEANS TEST UNDER THE BUREAU OF REHABILITATION SERVICES. As amended by

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Senate

Friday, May 1, 1998

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recommend we put the bill on Consent.

THE CHAIR:

Motion is to refer this item to the Consent  
Calendar. Without objection, so ordered. Senator  
Jepsen.

SEN. JEPSEN:

Madam President, at this time, I'd ask that we  
vote the Consent Calendar and then prepare for a break  
of at least an hour in duration so the Finance  
Committee can meet. And so that any lingering  
questions about the tax packages, tax package can be  
answered by respective caucuses.

THE CHAIR:

Mr. Clerk would you announce a roll call vote,  
please, on the Consent Calendar. The machine will be  
open momentarily.

THE CLERK:

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

Madam President, the first Consent Calendar begins  
on Calendar Page 1, Calendar No. 424, HJR114.

Calendar 425, HJR115.

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Calendar Page 2, Calendar No. 426, HJR116.

427, HJR117.

Calendar 428, HJR118.

Calendar 429, HJR119.

Calendar Page 7, Calendar No. 352, Substitute for  
HB5530.

Calendar 379, HB5625.

Calendar page 9, Calendar No. 412, Substitute for  
HB5485.

Calendar 413, Substitute for HB5614.

Calendar Page 10, Calendar No. 414, HB5460.

Calendar 415, Substitute for HB5560.

Calendar 416, Substitute for HB5599.

Calendar 417, Substitute for HB5605.

Calendar 418, HB5436.

Calendar Page 11, Calendar No. 419, HB5499.

Calendar 420, HB5750.

Calendar 421, Substitute for HB5016.

Calendar Page 13 -- Correction. Calendar Page 15,  
Calendar No. 201, SB216.

Calendar Page 16, Calendar No. 253, Substitute for  
SB472.

Calendar Page 17, Calendar No. 268, Substitute for  
SB326.

Calendar Page 19, Calendar No. 111, SB407.

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Calendar Page 22, Calendar No. 400, SR20.

Calendar 401, SR21.

Calendar 402, SR22.

Calendar Page 23, Calendar 403, SR23.

Calendar 404, SR24.

Calendar 405, SR26.

Calendar 406, SR27.

Madam President, that completes the first Consent Calendar.

THE CHAIR:

Thank you, Mr. Clerk. I will remind members we're voting on the Consent Calendar. The machine will be open. Mr. Clerk, would you once again announce a roll call vote on the Consent Calendar.

THE CLERK:

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

THE CHAIR:

THE CHAIR:

Have all members voted? If all members have voted, the machine will be locked. Clerk please take a

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Senate

Friday, May 1, 1998 002117

tally.

THE CLERK:

Motion is on adoption of Consent Calendar No. 1.

Total Number Voting 36

Those voting Yea 36

Those voting Nay 0

Those absent and not voting 0

THE CHAIR:

Consent Calendar is adopted. Senator Jepsen.

SEN. JEPSEN:

Thank you, Madam President. At this time I would ask that the Chamber stand at ease. We have a point of personal privilege.

THE CHAIR:

Senator Looney.

SEN. LOONEY:

Thank you, Madam President. And thank you, Mr. Majority Leader. I just wanted to, for purposes of an announcement, immediately upon the recess that the Majority Leader will be calling, the Finance Revenue and Bonding Committee will meet in Room 2E in the LOB to consider and hopefully to adopt revenue estimates.

THE CHAIR:

Thank you, Senator. Senator Jepsen.

SEN. JEPSEN:

JOINT  
STANDING  
COMMITTEE  
HEARINGS

INSURANCE  
AND  
REAL ESTATE  
PART 2  
166-451

1998

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INSURANCE & REAL ESTATE

March 3, 1998

JON ARSENAULT: Good morning. For the record, I'm John Arsenault, Counsel at the State of Connecticut Insurance Department. I manage the insurance receivership activity in Connecticut for the Insurance Commissioner under the supervision of the Superior Court.

I appreciate the opportunity to testify today on Raised Committee Bill 5614, representing the Commissioner, who by statute serves as the court appointed receiver of insolvent insurance companies.

As you may know, Congress has exempted insurance company receiverships from federal bankruptcy laws, thus state law, specifically the Insurers Liquidation and Rehabilitation Act, Chapter 704C of the general statutes, governs the rehabilitation and liquidation of financially troubled insurance companies.

Connecticut's insurance receivership statutes are based on the provisions of the National Association of Insurance Commissioners model act. They provide for a comprehensive scheme for the rehabilitation and liquidation of insurance companies.

Given the complex nature of many of the Connecticut based insurers which conduct business throughout the country and the world it is of critical importance to the State of Connecticut to continually update its insurance receivership statutes to reflect improved methods of rehabilitating insurers and to achieve enhancements in efficiency and economy of liquidation.

Raised Committee Bill 5614 amends Connecticut's insurance receivership statutes to conform them with several provisions of the NEIC model act.

For your reference I have prepared for you a section by section summary of the proposed changes. Many of the proposed changes represent the culmination of a three-year effort by the NEIC during which it examined the experience of receivers and identified problems which could be addressed through changes of the model act.

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INSURANCE & REAL ESTATE

March 3, 1998

The proposed changes will make the administration of insurance receiverships in Connecticut more efficient and more responsive to the needs of policy holders and other predators.

Doing so will help to minimize legal uncertainty and litigation for the insurance commissioner when he is called upon to serve as the receiver of Connecticut insurers and HMO's, thus saving expense which will inure for the benefit of insureds and other creditors of the company in receivership.

I am here to urge this committee to favorably report the Insurance Department proposal, Raised Bill 5614. Thank you.

SEN. BOZEK: (INAUDIBLE -- MICROPHONE NOT TURNED ON.)

MARK OJAKIAN: Good morning, Senator Bozek and members of the Committee. I'm Deputy State Controller Mark Ojakian and I'm here today to testify in support of HB5622, AN ACT CONCERNING THE STATE INSURANCE PURCHASING BOARD.

The proposal in front of you recommends a number of changes to the statutes governing the State Insurance Purchasing Board.

First, it allows the Board to develop and implement risk management and loss prevention programs related to the State's insurance plans.

It also changes the name of the Board to the State Insurance and Risk Management Board. And finally, it moves the administrative responsibility for administrative purposes only for the Board's budget, from the Department of Administrative Services, to the Office of the State Controller.

The State Insurance Purchasing Board consists of 11 members appointed by the governor with the state controller as an ex officio voting member.

It is the responsibility of the Board to determine which risk need insurance and to insure such coverage is provided in the most broad form at the lowest possible cost. It determines how much and

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INSURANCE & REAL ESTATE

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SEN. BOZEK: Any other questions? Being none, thank you, gentlemen.

PAUL JOHNSTON: Thank you.

WARREN RUPAR: Thank you.

SEN. BOZEK: We're going to the next bill, which is SB401. The first speaker is Dennis Laganza followed by Tom Tedford.

DENNIS LAGANZA: HB 5614 HB 5624 HB 5625 HB 5465  
I have six bills to do in three minutes. Let me introduce myself. My name is Dennis Laganza. I'm counsel to the Insurance Association of Connecticut. I'd like to talk to you about six bills today.

The first bill is SB401, AN ACT CONCERNING UNFAIR AUTOMOBILE STORAGE FEES. The IAC sees this as a fairness issue. Right now there are situations that arise where personnel do not have access to automobiles to inspect them and adjust them.

This unnecessary prolongs the amount of time that consumers are without vehicles and they are not repaired. It also prevents us from providing service to our customers.

The next bill I'd like to talk to you on is SB408, AN ACT CONCERNING NON-PAYMENT OF AUTOMOBILE INSURANCE PREMIUMS. The IAC supports this bill.

What this bill would do is when you have a non-payment on an initial premium on a new policy is permit the insurance company to void the policy from the inception. I'd like to point out that 37 other states permit this practice.

The bill has several beneficial effects. Right now when people don't pay their insurance premiums and they go from one insurance carrier to the other they're able to gain the system. That's a cost to everyone.

I'd also like to speak to you SB506, which is AN ACT CONCERNING INSURANCE FOR RENTAL MOTOR VEHICLES. This bill essentially does two things. It

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establishes -- clarifies, actually that if you're self insured under our insurance laws that you have the same obligations as anybody else to provide the same type of basic coverages that are mandated by the statutes.

And in particular, with rental car companies it establishes that in the event of an accident their insurance is primary.

I would point out to the committee that this obligation for primary insurance is no different from any other motor vehicle that is operated within the state.

Certain rental car companies now are attempting to shift responsibility for this back to the consumer. That is directly against the general statutes and I would also point the committee to a recent Supreme Court case which held in particular in the context of uninsured motorist coverage that those requirements apply to self insureds and there was also statements in that case to the effect that self insureds always have the same responsibilities.

I'd also like to speak to HB5614, and associate myself with the remarks of the commissioner on that bill.

And I would note that certain changes that have been made to that bill. And in consideration of those changes we are withdrawing -- a request that the committee withdraw HB5624, AN ACT CONCERNING REINSURANCE.

HB5625, AN ACT CLARIFYING EXEMPTIONS TO APPRAISAL LICENSING LAWS, the IAC supports this law. It provides for three basic things. Reciprocity of licensing, testing in accordance with industry standards, and the issue of a provisional license to somebody who's supervised.

We see this bill as enabling us to more effectively provide service to our customers by providing a greater quantity of adjusters.

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customer with the choice of either buying supplemental insurance. You have to pay for extra insurance or else that customer's insurance is primary -- is liable.

That is simply not proper, Senator, because the rental car company has the obligation under our statutes to provide the primary coverage. They shouldn't be forcing the consumer to make that type of election.

SEN. BOZEK: (INAUDIBLE -- MICROPHONE NOT TURNED ON.)

DENNIS LAGANZA: Yes, Senator, I do.

SEN. BOZEK: (INAUDIBLE -- MICROPHONE NOT TURNED ON.)

DENNIS LAGANZA: We are supporting that bill, Senator.

SEN. BOZEK: (INAUDIBLE -- MICROPHONE NOT TURNED ON.)

DENNIS LAGANZA: Yes, I did. I did 401. We are supporting all these bills. 408, 506, 5614, 5625 and 5465.

SEN. BOZEK: (INAUDIBLE -- MICROPHONE NOT TURNED ON.)

DENNIS LAGANZA: Thank you, Senator.

REP. AMANN: Any other questions? Being none, thank you very much.

DENNIS LAGANZA: Thank you.

REP. AMANN: The next speaker -- I don't know if Tom did all his bills already. Tom Tedford. I'm sorry, Tom. I'm thinking of somebody else.

TOM TEDFORD: Good morning, Mr. Chairman, distinguished members of the committee. My name is Tom Tedford. I'm here on behalf of the Towing and Recovery Professionals of Connecticut, an association that represents approximately 260 towing companies here in the state.

SB503

We're here today to offer our opposition to Raised Bill No. 401 for the following reasons: The bill

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**STATEMENT**

**THE INSURANCE ASSOCIATION OF CONNECTICUT**

**HB 5614 - An Act Concerning The Insurers Rehabilitation And  
Liquidation Act**

**Insurance and Real Estate Committee**

**March 3, 1998**

The Insurance Association of Connecticut supports HB 5614 - An Act Concerning The Insurers Rehabilitation And Liquidation Act. HB 5614 provides necessary updates to Connecticut's statutes which govern the rehabilitation and liquidation of insurers. HB 5614 will vest the Insurance Commissioner with the necessary powers and authority to effectively regulate the rehabilitation and liquidation of insurers.

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STATE OF CONNECTICUT  
INSURANCE DEPARTMENT

STATEMENT.  
JON ARSENAULT, INSURANCE DEPARTMENT COUNSEL  
BEFORE THE  
INSURANCE AND REAL ESTATE COMMITTEE

RCB 5614 - An Act Concerning The Insurers Rehabilitation  
and Liquidation Act.

Tuesday, March 3, 1998

Senator Bozek, Representative Amann, Members of the Insurance and Real Estate Committee. I am Jon Arsenault, Counsel at the State of Connecticut Insurance Department, where I supervise a small staff of attorneys. I also manage the insurance receivership activity for the Insurance Commissioner under the supervision of the Superior Court.

I appreciate the opportunity to testify today on Raised Committee Bill 5614, representing the Insurance Commissioner who, by statute, serves as the court-appointed receiver of insolvent insurance companies. As you may know, Congress has exempted insurance company receiverships from the federal bankruptcy laws. Thus, state law -- specifically the "Insurers Liquidation and Rehabilitation Act," Chapter 704c of the General Statutes, -- governs the rehabilitation and liquidation of financially troubled or insolvent insurers.

Connecticut's insurance receivership laws are based on the provisions of the National Association of Insurance Commissioners Model Act. Our insurance receivership statutes provide for a comprehensive scheme for the rehabilitation and liquidation of insurance companies. Given the complex nature of many of the Connecticut based insurers which conduct business throughout this country and the world, it is of critical importance to the State of Connecticut to continually update its

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insurance receivership statutes to reflect improved methods for rehabilitating insurers and achieve enhancements in efficiency and economy of liquidation.

Raised Committee Bill 5614 amends Connecticut's insurance receivership statutes to conform them with several provisions of the NAIC Model Act. For your reference, I have prepared for you a section-by-section summary of the proposed changes. Many of the proposed changes represent the culmination of a three-year effort by the NAIC during which it examined the experience of receivers and identified problems which could be addressed through changes to the Model Act. The proposed changes will make the administration of insurance receiverships in Connecticut more efficient and more responsive to the needs of policyholders and other creditors. Doing so will help to minimize legal uncertainty and litigation for the Insurance Commissioner when he is called upon to serve as the receiver of Connecticut insurers and HMOs, thus saving expense which will inure for the benefit of insureds and other creditors of the company in receivership.

I am here to urge this Committee to favorably report the Insurance Department proposal, Raised Committee Bill 5614, "An Act Concerning the Insurers Rehabilitation and Liquidation Act."

[Note: Section 5 has been added to RCB 5614 at the request of the Insurance Department and the Insurance Association of Connecticut with the understanding that no favorable action will be taken by this Committee with respect to RCB 5624 which was originally raised at the request of the IAC.]

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**AN ACT CONCERNING THE INSURERS REHABILITATION AND LIQUIDATION ACT**

Raised Bill No. 5614

Short Summary

This legislation amends Chapter 704c of the General Statutes to conform the Insurers Rehabilitation and Liquidation Act (hereinafter the "Act") to the several provisions of the "Insurers Rehabilitation and Liquidation Model Act" as adopted by the National Association of Insurance Commissioners (hereinafter the "Model Act"). The proposed changes represent the culmination of a three-year effort by the NAIC during which it examined the experience of receivers and identified problems which could be addressed through changes to the Model Act.

Section By Section Analysis

**Sec. 1. Section 38a-903. Short title: Insurers Rehabilitation and Liquidation Act. Interpretation. Applicability.**

No substantive amendments made.

**Sec. 2. Section 38a-904. Application of Provisions.**

The scope of the Act is expanded to include all "persons" subject to examination by the Commissioner. All persons or entities to which the Act applies and which are subject to delinquency proceedings are deemed to be "insurers." The provisions of the Act also apply to insolvent workers' compensation self-insured groups which currently are subject to provisions of the Act pursuant to Section 38a-1017.

**Sec. 3. Section 38a-905. Definitions.**

Expands definitions to cover treatment of swap agreements and derivative instruments in Sec. 22, by adding the following new definitions: "Commodity contract"; "Forward contract"; "Qualified financial contract"; "Netting agreement"; "Repurchase agreement"; "Securities contract"; "Swap agreement".

Expands the definition of "general assets." Includes only express trusts. The definition of "secured claim" is revised to be consistent with the revised definition of "general assets." Does not include special deposit claims or claims arising from constructive or resulting trusts. Does include judicial liens upon specific assets which were created more than four months prior to the commencement of delinquency proceedings.

**Sec. 4. Section 38a-907. Injunctions and Orders.**

Includes the provision for an automatic stay and provides for the court in the state of domicile of the delinquent insurer to have exclusive jurisdiction except as limited by other provisions of the Act.

**Sec. 5. Section 38a-934. Reinsurer's Liability.**

Clarifies that reinsurance proceeds may be paid directly to an insured in the event of the insolvency of a primary insurer and thereby diminish the reinsurer's obligation to the insurer's receivership estate. [This section has been added to RCB 5614 at the request of the Insurance Department and the Insurance Association of Connecticut with the understanding that no favorable action will be taken with respect to RCB 5624. Both the IAC and the Reinsurance Association of America concur with this result.]

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**Sec. 6. Section 38a-911. Delinquency Proceeding: Limitations and Conditions.**

No substantive amendments made.

**Sec. 7. (NEW). Records.**

This is a new section. One purpose of the section is to facilitate the introduction into evidence in a delinquency proceeding of the books and records of the insolvent insurer which come into the possession of the receiver. The section also provides that the appointment of the Commissioner as a receiver shall not cause the books and records of the delinquent insurer to be subject to the state's freedom of information law. The receiver is also allowed to recover the cost of producing records if a third party obtains a court order requiring production of records of the delinquent insurer.

**Sec. 8. Section 38a-913. Confidentiality of proceedings.**

No substantive amendments made.

**Sec. 9. Section 38a-915. Rehabilitation orders. Accounting.**

Provides for the appointment of a single judge to supervise the rehabilitation upon request to the administrative judge of the Superior Court for the Judicial District of Hartford-New Britain. (This provision exists with respect to the liquidation of state banks. See Public Act 97-160 § 1.)

Provides for an expedited appeal from an order of rehabilitation or an order approving a plan of rehabilitation. Provides that a stay of either order shall not be granted except in extraordinary circumstances. Provides that a stay shall not be granted if there is an appropriate mechanism for adjustment in the event of an adverse ruling on appeal.

**Sec. 10. Section 38a-916. Powers and duties of the Rehabilitator.**

Provides that the Commissioner shall have sole discretion regarding the appointment of advisory committees. Any committee appointed shall serve without compensation or reimbursement for expenses.

The rehabilitator may modify or restructure policies or contracts of direct insurance as part of a court approved plan of rehabilitation of a life insurance company. The rehabilitator may, with court approval, pay the reasonable and necessary expenses of an advisory committee to obtain an expert evaluation of the effect upon policyholders of any modification or restructuring of policies.

**Sec. 11. Section 38a-920. Liquidation orders. Financial reports: Contents and filings. Handling of claim obligations. Preference of claims. Appeals.**

Provides for the appointment of a single judge to supervise the liquidation upon request to the administrative judge of the Superior Court for the Judicial District of Hartford-New Britain. (This provision exists with respect to the liquidation of state banks. See Public Act 97-160 § 1.)

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**Sec. 12. Section 38a-921. Continuance of coverage.**

The purpose of this section is to allow the immediate cancellation of policies if a liquidation order is entered and there is no insurance guaranty fund coverage for the policy. This section makes it clear in subsections (e) and (f) that the cancellation of a surety bond does not release any co-surety or guarantor, and that the obligations of reinsurers are not affected by cancellation of policies pursuant to this section.

**Sec. 13. Section 38a-923. Powers of liquidator.**

Allows the liquidator to make interim payments of expenses to attorneys, accountants and others, subject to court approval.

Provides that the decision to appoint an advisory committee shall be at the sole discretion of the Commissioner. Advisory committees shall serve without compensation or reimbursement of expenses.

Provides that the liquidator is not required to defend any action against an insured but may elect to defend an action against an insured if in the best interest of the estate. Insureds not defended by a guaranty association shall include the cost of defending themselves in their claims. The liquidator retains the right to contest coverage without an express reservation of rights.

**Sec. 14. Section 38a-924. Notice to creditors and others. Notice requirements.**

Requirement of notice to agents is limited to those with current appointments. Notice may be given to other agents as deemed necessary.

Provides that the notice given by the domiciliary liquidator is sufficient. Ancillary receivers are not required to give notice unless the domiciliary liquidator fails to give notice. Also provides for notice to include reference to guaranty association coverage.

Notice requirements are satisfied by sending notice by first class mail to the last known address of each claimant or creditor and by publication of a general notice.

Allows notice by publication to persons holding an occurrence policy which expired more than four years prior to entry of the order of liquidation.

**Sec. 15. (NEW). Recoupment from affiliates.**

This is a new section. It allows the receiver to recover distributions made within the five-year period preceding the delinquency proceeding from affiliates who controlled the insurer. The recipient may retain the dividend is shown to be lawful and reasonable and that the recipient could not have reasonably known that the distribution would affect the insurer's solvency.

**Sec. 16. Section 38a-935. Recovery of premiums owed.**

(a)(1) No substantive amendments made; only clarifications of existing law. (Includes commissions in unpaid premium to be paid to receiver. Excludes any premium not earned due to termination of coverage pursuant to Section 38a-921.)

(a)(2) The sentence is revised for clarity.

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(a)(3) Provides that premium on surety business is deemed earned at inception if no policy term can be determined. All other premium is deemed earned and prorated over the policy term. If a loss claim is approved under Section 38a-945, all premium for the full policy term is deemed earned.

(a)(4) Those who collect premium under a premium financing agreement are deemed to hold premium in trust for the benefit of the insurer.

(a)(5) Provides for collection of premium due from premium finance contracts from either the finance company or the insured.

**Sec. 17. Section 38a-938. Proof of claim.**

Requires social security or federal employer identification number of the claimant to be included in a proof of claim. Permits guaranty associations to file a single omnibus proof of claim which may be periodically updated.

**Sec. 18. Section 38a-939. Special claims.**

(a) Formerly subsection (d).

(b) This is a new subsection. Allows for the filing of contingent, unliquidated or immature claims after the entry of a liquidation order. Defines each term.

(c) Provides that contingent, unliquidated or immature claims may share in the distribution of assets of the estate subject to the conditions set out in this subsection.

(d) Allows filing of a policyholder protection claim by those holding an occurrence policy.

**Sec. 19. Section 38a-940. Special provisions for third party claims.**

Third party claimants must file their claim before the bar date. If an insured files a claim, it covers all related third party claims.

**Sec. 20. Section 38a-941. Disputed claims.**

(a) Shortens the time for filing an objection to a claim determination to thirty days.

(b) Provides for an informal hearing.

(c) If a disputed claim is heard by a referee, the referee's findings are final, unless an objection is filed within fifteen days.

(d) Final disposition of a disputed claim by the court is deemed a final judgment for purposes of an appeal.

(e) Allows courts to develop special rules for the handling of disputed claims.

**Sec. 21. Section 38a-942. Claims of surety.**

No substantive amendments made.

**Sec. 22. (NEW) Qualified Financial Contracts.**

Provides for treatment of qualified financial contracts (i.e. swap agreements and derivative instruments) in the event of an insurer insolvency. Protects the right of counterparties to exercise their rights under netting agreements and to resort to any security pledged in support of a qualified financial contract. Provides for the transfer of netting agreements or qualified financial contracts by the receiver of the

insolvent insurer. Determines the priority of other claims of counterparties after completion of netting and setoff.

Section 22 follows the corresponding provisions of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, ("FIRREA"), codified in pertinent part at 12 U.S.C. { 1821(e)(3) and (8)-(11), relating to treatment of such contracts in the case of insolvent insured depository institutions (essentially, federally-insured banks and savings institutions). In addition, it draws from other sources, notably: (i) the Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA"), codified in pertinent part at 12 U.S.C. § 4401, *et seq.* relating to treatment of "netting agreements" between "financial institutions"; and (ii) the 1990 amendments to the Bankruptcy Code, codified in pertinent part at 11 U.S.C. §§ 101(53B), 362(b)(17) and 560, relating to treatment of "Swap agreements" in the case of insolvent United States corporations other than banks and insurers.

**Sec. 23. Section 38a-944. Priority of distribution of claims.**

- (a)(1) Class 1. Provides that the costs and expenses of administration included in this class must be expressly approved by the receiver. This is intended to address the netting provision of swap agreements and derivative instruments.
- (2) Class 2. The administrative expenses of guaranty associations are now in Class 2 as opposed to Class 1. Attempts to define the expenses to be included in this class as those expenses which would have been incurred by the receiver if the guaranty associations did not exist. Expenses must meet the test of being "reasonable". Allows for payment of Class 2 claims concurrent with payment of Class 1 claims, if assets of the estate are sufficient.
- (3) Class 3. Unearned premium claims are moved to this class. Excludes claims for obligations of the insolvent insurer arising under reinsurance contracts, claims in excess of policy limits, claims for punitive or exemplary damages and bad faith claims.
- (4) Class 4. Claims of the federal government except those in Class 3.
- (5) Class 5. Claims of employees.
- (6) Class 6. Claims of general creditors.
- (7) Class 7. Claims of a state or local government, except those under Class 4.
- (8) Class 8. Surplus notes and like obligations, and interest on claims assigned to Classes 1-7.
- (9) Class 9. Claims of shareholders or other owners.
- (b) A new subsection (b) is added and former subsection (b) concerning treatment of separate accounts is changed to (c). The receiver is allowed to set-off the amount of any indebtedness owed by the claimant to the insurer against any dividend to be paid to the claimant.

**Sec. 24. Section 38a-945. Liquidator's recommendations to the court.**

- (c) Allows the liquidator to make provision for distributions in respect of incurred-but-not-reported losses.
- (d) Provides that the liquidator is not required to adjudicate claims of a class if it is unlikely that assets will be sufficient to fund a distribution to that class.

**Sec. 25. Section 38a-947. Unclaimed and withheld funds.**

- (a) Contains new provisions for an alternative to escheat of unclaimed funds. The liquidator may, if allowed by the court, hold unclaimed funds for two years and then distribute the funds to claimants if economically feasible, or the liquidator may ask the court for authority to retain the unclaimed funds to defray the costs and expenses of administration of no-asset insurance receivership estates.

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**Sec. 26. Section 38a-952. Conservation of property of foreign or alien insurers found in this state. Termination of conservation.**

A provision has been added to limit the application of this section to the property of the foreign or alien insurer found in the jurisdiction.

**Sec. 27. Section 38a-961. Subordination of claims for noncooperation.**

Corrects a typographical error in existing law and conforms it to the change made in section 38a-944 as amended by § 23.

**Sec. 28. Section 38a-1. Definitions.**

A minor revision is made to the definition of "insolvency" or "insolvent".

**Sec. 29, Sec. 30 and Sec. 31.**

No substantive changes are made: the internal references to § 38a-65 are deleted since the statute is repealed by section 32, and the internal reference to subdivision (d) of § 38a-905 has been deleted since such subsection no longer exists in the statute as amended by section 3.

**Sec. 32. Repealer.**

Section 38a-65, concerning disposition of unclaimed dividends of insolvent insurers, adopted in 1889, is repealed as being inconsistent with section 38a-947.

Section 38a-316, adopted in 1879, is repealed. This statute, captioned "Premium notes subject to set-off," relates to assessable insurance, a type of insurance confined to certain mutual companies, which may require the policyholder to contribute in the event the insurer becomes unable to pay its losses. Connecticut's statutes concerning assessment insurance, were enacted in 1882 and 1885. When the insurance statutes were recodified, the statutes concerning assessment insurance, were found to be obsolete and inconsistent with other statutes and, thus, were repealed in 1990 with the unintended exception of section 38a-316 (formerly section 38-114).