

Legislative History for Connecticut Act

		2005
Act Number:	61	
Bill Number:	6806	
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Committee:	Insurance: 1456, 1462-1474, 1474-79, 1481, 1486-1487, 1495, 1505, 1516, 1602-1612, 1614, 1616-1620	42
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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
2005

VOL. 48
PART 7
1960-2270

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Calendar 421, S.B. 1356, Mr. President, would
move to refer this item to the Committee on Energy and
Technology.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Thank you, Mr. President. Calendar 430, H.B.
6806, would move to place this item on the Consent
Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Thank you, Mr. President. Calendar 436, S.B. 61,
Mr. President, would move to refer this item to the
Committee on Finance, Revenue and Bonding.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Thank you, Mr. President. Under Favorable
Reports and Resolutions, Calendar Page 40, Calendar
361, marked Go.

Calendar 433, H.J. 36, Mr. President, would move
to place this item on the Consent Calendar.

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Calendar Page 5, Calendar 373, Substitute for
H.B. 6660.

Calendar Page 6, Calendar 402, Substitute for
S.B. 516.

Calendar Page 10, Calendar 451, Substitute for
S.B. 1283.

Calendar Page 18, Calendar 500, Substitute for
H.B. 6831.

Calendar Page 19, Calendar 502, Substitute for
H.B. 6753.

Calendar 504, H.B. 5108.

Calendar Page 21, Calendar 521, Substitute for
H.B. 6866.

Calendar Page 22, Calendar 528, Substitute for
H.B. 6622.

Calendar Page 23, Calendar 532, Substitute for
H.B. 6947.

Calendar Page 37, Calendar 358, Substitute for
S.B. 1010.

Calendar 386, Substitute for S.B. 256.

Calendar Page 39, Calendar 430, Substitute for
H.B. 6806.

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Calendar Page 40, Calendar 433, Substitute for
H.J. 36.

Calendar Page 41, Calendar 512, Substitute for
H.J. 34.

Calendar 513, H.J. 42.

Calendar 515, Substitute for H.J. 62.

Calendar Page 42, Calendar 517, H.J. 83.

Mr. President, that completes those items
previously placed on the first Consent Calendar.

THE CHAIR:

Recognized at this time? We haven't, pardon me?

SEN. FREEDMAN:

[Inaudible - microphone not on]

THE CHAIR:

We haven't opened the vote yet, Senator Freedman.

SEN. FREEDMAN:

[Inaudible - microphone not on]

THE CHAIR:

You're just anxious, I know. I can see the. The
machine will be open. The Clerk will please announce
the pendency of a roll call vote on the first Consent
Calendar.

THE CLERK:

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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.

THE CHAIR:

Have all Members voted?

THE CLERK:

You know what, I didn't call that.

THE CHAIR:

Senator Gaffey. Senator Prague. Senator
Williams.

THE CLERK:

I didn't call it, but it was placed on Consent.
Okay, so I should announce that. I'll tell him.

THE CHAIR:

So all Members have--

THE CLERK:

Please close it. There is one zero that I didn't
mention that is on the Consent Calendar that I didn't
call.

THE CHAIR:

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How can it be on the Consent Calendar if you didn't call it? It can't be on the Consent Calendar if you didn't call it.

THE CLERK:

No, it was placed on Consent. I just didn't read it.

THE CHAIR:

I think we're only voting on that which you read, so you're going to have to have another vote on that.

THE CLERK:

Yeah. Well, I missed one on Consent Calendar 2. It's on the Consent Calendar 1, Page 5. 382 didn't HB 5446 get put on there.

THE CHAIR:

It was the last meeting of the Consent Calendar. If you read it the second time, you're giving notice to people for their last objection. If you don't read it--

THE CLERK:

But I didn't call it though, did I?

UNIDENTIFIED SPEAKER:

It's on the list that's going to be voted on in the computer.

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THE CLERK:

You heard me call it?

THE CHAIR:

[Inaudible - microphone not on] call it.

THE CLERK:

You sure?

THE CHAIR:

[Inaudible - microphone not on]

[Gap in testimony - 23 seconds]

THE CHAIR:

The Consent Calendar has been adopted. Didn't we close it already? Sorry. Oh, I was waiting for you? The Clerk will announce the results of the vote.

THE CLERK:

Motion is on adoption of the Consent Calendar No. 1.

Total number voting, 34; necessary for adoption, 18. Those voting "yea", 34; those voting "nay", 0. Those absent and not voting, 2.

THE CHAIR:

The first Consent Calendar is passed. Senator LeBeau.

SEN. LEBEAU:

H-935

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HOUSE

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PART 9
2427-2741

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On Page 6, Calendar Number 234, Substitute for
House Bill Number 6806, AN ACT CONCERNING INSURANCE

PRODUCER COMPENSATION, Favorable Report of the
Committee on Insurance and Real Estate.

SPEAKER AMANN:

Representative O'Connor.

REP. O'CONNOR: (35th)

Thank you, Mr. Speaker. The Clerk is in
possession of LCO Number 5705. I ask that he call it
and ask leave to summarize.

SPEAKER AMANN:

Could you please move acceptance, please, Sir?

REP. O'CONNOR: (35th)

I'm sorry. I move acceptance of the Joint
Committee's Favorable Report and acceptance of the
Bill.

SPEAKER AMANN:

Thank you very much, Sir. The question is on
acceptance of the Joint Committee's Favorable Report
and passage of the Bill. Will you remark, Sir?

REP. O'CONNOR: (35th)

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Thank you, Mr. Speaker. The Clerk is in possession of LCO Number 5705. I ask that he call it and ask leave to summarize.

SPEAKER AMANN:

The Clerk has in his possession LCO Number 5705. Would you please call it, Sir.

CLERK:

LCO Number 5705, House "A" offered by
Representative O'Connor.

SPEAKER AMANN:

Representative O'Connor.

REP. O'CONNOR: (35th)

Thank you, Mr. Speaker.

SPEAKER AMANN:

Hold on one second, Mr. O'Connor. I apologize, Representative O'Connor. Representative O'Connor seeks leave of the Chamber to summarize the Amendment.

Is there objection on summarization? Is there objection on summarization? Being none, you have the floor, Sir.

REP. O'CONNOR: (35th)

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Thank you, Mr. Speaker. This Amendment specifically targets and identifies the marked misconduct of Marsh and McLennan in New York.

It clearly spells out that the intentional misquote of a premium rate is illegal and is not to be condoned in Connecticut.

It may go without saying that this behavior should be illegal in Connecticut, but the Insurance Department, the industry, and the Insurance Committee did not want there to be any doubt. So I ask that the Chamber support this and I move adoption.

SPEAKER AMANN:

The question before the Chamber is adoption of House Amendment Schedule "A". Will you remark on the Amendment, Sir? Will you remark further? Will you remark further on the Amendment? Representative D'Amelio.

REP. D'AMELIO: (75th)

Thank you, Mr. Speaker. Mr. Speaker, I also rise in favor of the Amendment. This Bill will establish guidelines for disclosure that will protect consumers and address the abuse that has been seen in the

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insurance marketplace. And for that reason I urge adoption. Thank you, Mr. Speaker.

SPEAKER AMANN:

Thank you, Sir. Will you remark further? Will you remark further on the Amendment? Representative O'Connor.

REP. O'CONNOR: (35th)

I would just ask that you move adoption and ask that the Chamber give us their support.

SPEAKER AMANN:

Very good, Sir. Will you remark further? If not, try your minds. All those in favor please signify by saying Aye.

REPRESENTATIVES:

Aye.

SPEAKER AMANN:

All those opposed, Nay. Ayes have it. The Amendment is passed. Representative O'Connor.

REP. O'CONNOR: (35th)

Thank you, Mr. Speaker. This Bill as amended is a direct response to the illegal activities of certain insurance producers, most notably Marsh and McLennan, and seeks to prevent this improper conduct from

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occurring in the future by implementing disclosure of certain compensation arrangements.

Some of the illegal activities included bid rigging and market manipulation, and we think that this Bill will be able to address it.

Some of the specific aspects are as follows. If a producer or affiliate receives any compensation directly from a customer for the initial placement of insurance, neither the producer nor affiliate shall accept or receive any compensation from an insurer or other third party for this placement, unless the disclosure is made prior to when the policy is delivered.

Compensation in this manner includes commissions, fees, awards, bonuses, loans, stock options, or gifts. The disclosure will be in writing, except if the purchase is done over the telephone or by the Internet.

And I think because of the high-profile nature of this Bill and the case against some of the insurance producers, there were concerns that this would reach out to the independent agent community.

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And it was the opinion of the Committee and of myself that they were targeted unfairly and should not be part of the Bill because they're not part of the problem. And I think we struck a good balance in differentiating between the two.

What this Bill does, it does provide for some exemptions and it does impact most of the independent agents who will not be affected by this Bill, in that if it's commission-based only they will still only have to disclose that they're getting the commission, but other than that the rules will not apply to them.

So I seek the Chamber's support. I think it's a good Bill that addresses a lot of the illegalities of some of the large commercial insurance producers.

And I also think it allows the independent agents to conduct their businesses without onerous burdens and disclosure reporting. I ask for your support.
Thank you.

SPEAKER AMANN:

Will you remark further? Will you remark further on the Bill as amended? Representative Green.

REP. GREEN: (1st)

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Thank you, Mr. Speaker. Mr. Speaker, I guess I just want to understand this Bill a little bit more. Representative O'Connor talked about that this is going to try to address a major problem with insurance companies and I just want to understand if I'm understanding it, if I understand this correctly.

If someone was to sell me insurance, if an agent was to sell me insurance, does this Bill say that that agent has to disclose whether or not they're getting a commission from the insurance company that they sell me the insurance policy on?

For example, if that agent is selling me All-State insurance, does that agent have to tell me what amount of money they're receiving from All-State? Through you, Mr. Speaker.

SPEAKER AMANN:

Thank you, Sir. Thank you, Sir. Representative O'Connor.

REP. O'CONNOR: (35th)

Thank you, Mr. Speaker. Through you. In that circumstance they would do their best, they would not have to disclose the amount of the commission.

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What they would have to disclose is that they're receiving a commission and if there's anything beyond that such as a bonus or profit sharing.

SPEAKER AMANN:

Representative Green.

REP. GREEN: (1st)

Thank you, Mr. Speaker. Mr. Speaker, through you. I'm trying, again, to understand some information I might have heard about this.

Does this try to address whether or not a particular insurance company directs their agents to sell a particular product and that they can only sell their products and not other companies' products? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative O'Connor.

REP. O'CONNOR: (35th)

Through you, Mr. Speaker. Can I have a clarification? Are you trying to get at as to whether or not they're limited, let's say they're an All-State agent, that they can't sell a Progressive insurance policy or that?

REP. GREEN: (1st)

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That is correct, Mr. Speaker.

SPEAKER AMANN:

Representative Green. Thank you, Sir.

Representative, please go through me first. I would appreciate that. So back to you then, I guess, Representative O'Connor.

REP. O'CONNOR: (35th)

Through you, Mr. Speaker.

SPEAKER AMANN:

Thank you, Sir.

REP. O'CONNOR: (35th)

That, what you're asking is not addressed in this Bill. It would not force an All-State agent or a sole proprietor to sell any particular products.

REP. GREEN: (1st)

Thank you. Through you, Mr. Speaker, then, again, if, for example, I make an arrangement to get insurance by telephone and I'm talking to an agent and that agent gives me a figure.

And that agent then says based on this conversation you are now insured. Is that, through you, Mr. Speaker, should I assume that I am insured or do I have to wait now until I get some information

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about the commission, the rate an all that, before I'm insured?

Because, again, I just want to be clear, if that person believes they're insured because of that telephone conversation, does this Bill change that and in what way. Through you, Mr. Speaker.

SPEAKER AMANN:

Thank you, Sir. Representative O'Connor.

REP. O'CONNOR: (35th)

Through you, Mr. Speaker. No. The policy would not take effect until you as a purchaser of that insurance were to write a check to the company and have the policy delivered to you.

But prior to the policy being delivered to you, if there was any compensation beyond the commission, you would have to be notified of that through disclosure.

SPEAKER AMANN:

Thank you. Thank you, Sir. Representative Green.

REP. GREEN: (1st)

One last question, through you, Mr. Speaker. And I'm thinking about auto insurance at this time. And I

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know that a lot of times people will call and get an auto insurance quote so that they can in fact have auto insurance.

That's usually secure once you have that phone conversation and someone says you are now insured, and that's sometimes before you in fact pay for that insurance.

I just want to be clear. In that example where you may conclude that you have an auto-insurance policy with an agent and that agent says you're now insured, did the Representative say that that policy is not in effect until a check is given to that person or you have that policy. Through you, Mr. Speaker.

SPEAKER AMANN:

Representative O'Connor.

REP. O'CONNOR: (35th)

Through you, Mr. Chairman. The policy would not be in effect because it was just a verbal agreement. There would have to be some kind of remittance of some kind of fee paid.

SPEAKER AMANN:

Representative Green.

REP. GREEN: (1st)

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Thank you for those responses.

SPEAKER AMANN:

Thank you, Sir. Will you remark further?

Representative Miner.

REP. MINER: (66th)

Thank you, Mr. Speaker. If I could also, a few questions to the proponent of the Bill.

SPEAKER AMANN:

Please, Representative O'Connor, prepare yourself, Sir.

REP. MINER: (66th)

Thank you, Mr. Speaker. Kind of following up on the questions asked by the previous speaker, if I buy a new insurance policy, generally I have a conversation with an agent.

And at the time my insurance policy renews, I very seldom have a conversation with the agent. Upon renewal, let's say in a subsequent year, if the compensation changed, is the agent required to notify me of any change in that compensation? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative O'Connor.

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REP. O'CONNOR: (35th)

Through you, Mr. Speaker. They would not have to do it upon renewal.

SPEAKER AMANN:

Representative Miner.

REP. MINER: (66th)

Thank you, Mr. Speaker. I don't know how the insurance company, insurance agencies work and how agents who represent them work, but it would seem to me if you do a certain book of business, as you continue to represent different companies, you may get increases in compensation. You might get bonuses. You might get a number of things.

In subsequent months to me, getting my insurance policy, does that agent, would that agent have an obligation to come back to me and say I got 10% commission when I sold it to you, but I've received a bonus since selling you that policy based on other sales? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative O'Connor.

REP. O'CONNOR: (35th)

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Through you, Mr. Speaker. The obligation is at the outset of the policy purchase.

SPEAKER AMANN:

Representative Miner.

REP. MINER: (66th)

Thank you, Mr. Speaker. And I thank the gentleman for his answers. I remember when we had some testimony about this Bill, and I actually was out of the town at the time we voted on it.

My concern at the time was that we would have agents that might get caught up in some, I don't know, not necessarily a sting, but some situation where they made a good-faith effort at the time they sold me the policy and they didn't know that they had to inform me of any subsequent change in my compensation.

So based on the gentleman's answers, I don't believe that that will exist. I believe that anything that occurs after I bought the policy would be exempt from this provision.

And so it's not likely that we'd be reading about it in the paper where some responsible insurance agent didn't understand the rules of this. Thank you, Mr. Speaker. And I thank the gentleman for his answers.

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SPEAKER AMANN:

Thank you, Sir. Will you remark further? Will you remark further? If not, will staff and guests please come to the Well of the House.

The machine will be opened. Members, please, come to the Well of the House. The machine will be opened. Take your seats.

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.

SPEAKER AMANN:

Have all the Members voted? Have all the Members voted? Have all the Members voted? Will the Members please check the board to make sure that your vote has been accurately cast.

If all the Members have voted, the machine will be locked and we'll ask the Clerk to take a tally. The Clerk please call the tally.

CLERK:

House Bill Number 6806, as amended by House Amendment Schedule "A".

Total Number Voting 142

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Necessary for Passage	72
Those voting Yea	141
Those voting Nay	1
Those absent and not voting	9

SPEAKER AMANN:

The Bill as amended is passed. Representative Roy. Actually, will the Clerk please call Calendar Number 254.

CLERK:

On Page 20, Calendar Number 254, Substitute for House Bill Number 6722, AN ACT CONCERNING THE USE OF HAND-HELD MOBILE TELEPHONES AND HAND-HELD MOBILE ELECTRONIC DEVICES BY OPERATORS OF MOTOR VEHICLES, Favorable Report of the Committee on Judiciary. House "A" has been adopted.

SPEAKER AMANN:

Representative Roy.

REP. ROY: (119th)

Thank you, Mr. Speaker. Mr. Speaker, I move acceptance of the Joint Committee's Favorable Report and passage of the Bill as amended.

SPEAKER AMANN:

JOINT
STANDING
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HEARINGS

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PART 5
1289-1622

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REP. O'CONNOR: Do you know what the log is right now as far as any complaints or do you know if the--

COMM. COGSWELL: I'm not sure [inaudible] nationwide, but one has been referred to Connecticut at this point.

REP. O'CONNOR: --very good. Thank you.

SEN. CRISCO: Thank you very much.

RE. O'CONNOR. Thank You.

SEN. CRISCO: Is the Attorney General here?

UNIDENTIFIED SPEAKER: No.

SEN. CRISCO: Everybody's indulged just because of the weather. What we will do is we'll go right to the public portion and when he arrives, we'll go back to the public portion.

Is Spencer Houldin here? He will be followed by Larry Fowler. If that's [inaudible] with everyone? I see no objection. Then we'll proceed to the public portion.

SPENCER HOULDIN: Good morning, Senator Crisco, Representative O'Connor. My name is Spencer Houldin and I am an insurance agent in Washington Depot.

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My agency, Ericson Insurance Services, is a second-generation, family-owned small business, run by my brother and me.

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I also serve as the President of the Independent Insurance Agents of Connecticut, and with me today is Warren Ruppard, the Executive Vice President.

On behalf of the more than 450 member agencies and their 3500-plus employees throughout the state, I come to you today to speak in favor of Raised House Bill 6806.

I have submitted my written testimony, and I'd like to call to your attention some important highlights at this time.

Raised House Bill 6806 provides for disclosure that addresses the abuses we've seen in the broker market place.

The language in this model is similar to the NAIC model, which is in House Bill 6689. We commend the NAIC, and particularly Insurance Commissioner Cogswell for their work in developing the model proposal. [inaudible - microphone not on]

--example of the value of state regulation of insurance and the value of having a commission who responded to the needs of the public and the industry.

IIAC supports Raised House Bill 6806 because the disclosure requirements directly address the abuse that occurred in the broker marketplace and will help prevent any future abuses.

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The distinction between agents and brokers is important. Insurance agents do not get paid directly by the insurance customer.

It is commonly understood that the agent receives compensation from the insurance company that the business is placed with.

The compensation is paid as a commission, which is publicly disclosed by insurers as part of rate filing to the insurance department.

Agents maintain written contracts with the company they represent, and these contractual relationships are also disclosed to the insurance department in the form of appointment filings.

Insurance brokers, on the other hand, offer advice directly to a client and solely represent the client in the purchase of insurance.

The insurance brokers locate, customize, and secure complex insurance packages to address the needs of their clients, and normally interact with a risk manager or a sophisticated insurance buyer.

The broker is paid directly by the customer in the form of a fee. In some cases, the broker may receive compensation from the insurance company for placement of a policy.

It's at this level where the illegal market manipulation by a broker occurred. In fact, there are only a handful of large,

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multinational brokers with the economic power and leverage in the marketplace who could even attempt such illegal manipulation.

Strong enforcement can address these few instances if they ever arise again.

Raised House Bill 6806 states that producers who receive compensation directly from a customer will be required to obtain the customer's documented acknowledgement that compensation will be received by the producer.

The producer must disclose the amount of compensation that the producer will receive from the insured or other third party.

Additionally, this bill includes language that further defines who must disclose and when the disclosure should occur.

Raised House Bill 6806 will provide a level of protection and will place disclosure requirements at the broker level, where it belongs.

As independent agents, we operate as a back office of an insurance company. We service the file, and in most cases, transmit policy changes and loss notices directly on the carrier's mainframe.

We bill the cost of employing, training, and licensing customer service representatives, and provide them and their families with benefits.

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The commission income that we receive pays these expenses. In the highly competitive marketplace in which we operate, we know that the bottom line for our customer is the cost of the product.

That is why the provisions in Raised House Bill 6806 should be supported. The Bill addresses the need to have disclosure at the broker level and does not place onerous requirements on Main Street agents making them noncompetitive.

IIAC urges the Committee to support Raised House Bill 6806, as this bill requires disclosure that'll address the area of abuse, and potential abuse, that's been seen in the marketplace. I thank you for your time.

SEN. CRISCO: Thank you, Sir. Any questions? Thank you very much. Mr. Fowler? Larry Fowler?

LARRY FOWLER: Good morning, Senator Crisco, and Representative O'Connor, and Members of the Insurance and Real Estate Committee.

HB 6806
HB 6689

My name is Larry Fowler, and I'm a multi-line agent from Norwich.

I'm speaking today as a Past President of the National Association of Insurance and Financial Advisors here in Connecticut, which represents about 850 members.

We call our association NAIFA. I'm also honored to have been elected a member of NAIFA's National Board of Trustees.

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I'm here to support Raised House Bill 6806, AN ACT CONCERNING INSURANCE PRODUCER COMPENSATION. NAIFA also supported House Bill 6689, AN ACT CONCERNING DISCLOSURE OF INSURANCE PRODUCER COMPENSATION, that is phrased differently, but quite similar.

To begin, I wanted to emphasize NAIFA is very much against the improper activities and compensation of a few bad actors, such as has been in the news in recent months.

This legislation responds to this with enhanced producer compensation disclosure. It requires producers who receive a fee from a client in an advisory capacity, and also get commission from the insurance company, to discuss it and get written approval from their customer.

When an agent does not receive compensation directly from the client, they are obligated to tell them, during the application process, they represent the insurance company and are paid a commission to provide various services.

To answer any question about where the bill language came from, I want everyone to know the provisions were worked out through a series of hearings and meetings conducted by the National Association of Insurance Commissioners, which Susan Cogswell mentioned earlier.

It included considerable public comment. NAIFA, at the national level, played a very active role in developing these provisions.

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I want to give one example of the word-by-word analysis that took place, which was provided to me by the NAIFA staff member who was involved.

Some Insurance Commissioners had concerns consumers were confused by who the agent represented, if it was the customer, or the insurance company.

Thus, the term, representing the insurer, was developed and agreed upon to address this concern.

One of the primary reasons we support the NAIC developed provisions is because they will achieve uniformity from state to state. This is critically important in our business today, so new products can come to Connecticut.

On the other hand, if Connecticut were to use other requirements, the compliance burdens on agents and advisors would be enormous.

I have a property and casualty multi-line business. Other agents here in Connecticut specialize in life, health, and other insurance products.

There are many licensed agents across the country who do business in Connecticut. All of us would have to spend time on paperwork that provides no value to Connecticut residents. In fact, it would be a disservice to them.

Without uniformity, considerable expense would be added to insurance companies marketing in

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Connecticut, thus causing higher rates for our consumers.

Please, support Raised House Bill 6806 and the very important specific language agreed to by the NAIC, and House Bill 6689. Thank you.

SEN. CRISCO: Thank you, Sir. Any questions? Thank you very much. Joe Bishop, with Steven Imbriaco. They'll be followed by Bob Kehmna.

JOE BISHOP: Good morning, Senator Crisco. Good morning, Representative O'Connor. Thank you for the opportunity to be here.

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SB 1004
SB 1006
SB 1180

My name is Joe Bishop. I'm currently the President Elect of the Professional Insurance Agents Association of Connecticut. Steven Imbriaco is here with me, Corporate Counsel for the Professional Insurance Agents Association of Connecticut.

I am a principle and owner of a small agency located with main offices is North Haven, Connecticut. I'm here to urge support of Raised House Bill 6806.

In regards to its current positioning, I think that this bill adequately addresses the situation that has been brought to light.

PIAAC, in general, condemns big rigging, market manipulation, and any other anti-competitive and illegal acts.

Those that were raised, and the charges against the Marsh case in New York are absolutely not

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common practices with any small independent insurance agents in Connecticut.

Connecticut's Attorney General has more recently charged Marsh with soliciting compensation from an insurer after explicitly having been contracted with the State of Connecticut to provide certain services in regards to workers' compensation.

That agreement specifically prohibited compensation from any other source in connection with that placement of insurance.

Those actions, needless to say, are illegal under various different Statutes. We support Raised House Bill 6806 because it accurately reflects the realities of the insurance marketplace, and still addresses areas of abuse that have been uncovered.

There are two main differences between Raised House Bill 6806 and House Bill 6689.

The first is that Raised House Bill 6806 would limit the disclosure requirement to the initial placement of insurance only, thereby eliminating any obligation to make an administratively difficult, duplicate disclosure upon renewal.

It would still require that a producer would disclose accurately and transparently, to their client, any compensation arrangements that were involved in that placement of insurance.

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The second difference is that it would eliminate the need for insurance agents to make the more detailed disclosure that will be required of an insurance broker when placing business in surplus or excess-lines marketplaces.

Insurance agents commonly place business when there is no current voluntary market available for their clients in these markets. They would be acting as a broker in that regard.

It is strictly with the placement of insurance that is difficult to place or for which there is little or no market.

Ultimately, Raised House Bill 6806 is fair to insurance producers. It mandates great communication and transparency between producers and the insured.

It acknowledges the validity of the legal compensation agreements that are a vital source of income for many producers.

PIAAC also urges this Committee to oppose Proposed Senate Bill 1004, Proposed Senate Bill 1006, Raised Senate Bill 1180, and portions of House Bill 6689. These bills go simply too far.

Thank you for your attention this morning, and we appreciate the time. We look forward to your support.

SEN. CRISCO: Thank you, Sir. Are there any questions? Yes, Chairman O'Connor?

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REP. O'CONNOR: Thank you, Mr. Chairman. Just quickly, with the implementation of the Bills you're in support of, Raised House Bill 6806 in this case, do you think there will be kind of a trickle-down at all to the independent insurance agents or the Main Street agents, as far as some of the safeguards we're attempting to put in place here?

JOE BISHOP: Yes, Representative. I think that the bill will adequately address the needs of the state and the consumers in Connecticut.

REP. O'CONNOR: Without affecting the competition within the market here in Connecticut?

JOE BISHOP: I don't think that it will effectively affect the competition here in the State of Connecticut.

We have a very competitive market right now, which is probably, historically, the most competitive it's been in the last 18 years.

REP. O'CONNOR: Thank you very much.

SEN. CRISCO: Thank you, Sir. Robert will be followed by Jay Jackson.

BOB KEHMNA: Thank you, Mr. Chairman, Representative O'Connor. For the record, my name is Bob Kehmna.

I'm President of the Insurance Association of Connecticut. I'm here to speak about Raised House Bill 6806 and House Bill 6689.

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Recent allegations of illegal activity in certain insurance brokerage transactions are of real concerns to the IAC and its member companies.

Insurance bid rigging is unacceptable and is prohibited under current Connecticut law.

The NAIC, as you heard earlier, established a task force, including the active participation of Connecticut, to seek regulatory solutions to the issues regarding previous compensation that have arisen.

They've properly taken a deliberative tact in their efforts. The insurance industry has provided, and will continue to provide, input, as they consider the various issues that have arisen.

Both Raised House Bill 6806 and House Bill 6689 are based on the Compensation Disclosure Amendment that was developed by that taskforce.

We understand that the taskforce continues to work on that amendment and is considering further changes to it.

We believe that both bills provide a good starting point for further discussions about the appropriate level of application and compensation disclosure requirements.

If legislation is adopted, it should directly address the questionable and improper practices that have been brought to light, and provide

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consumers with needed information, so that confidence can be restored in the insurance distribution.

It should not, however, create unfocused, counterproductive requirements, which would only serve to unnecessarily increase transactional costs, confuse the consumer, and possibly impair the highly competitive marketplace that you've just heard about recently.

The basic difference between the two bills is Raised House Bill 6806 adds some additional language to clearly focus the legislation on the broker transaction activity, which has been called into question.

We would welcome the opportunity, as an association, to work with your Committee, with the Department, and all interested parties to find a productive answer to the important public policy questions that have been raised in these two Bills. Thank you.

SEN. CRISCO: Thank you, Sir. Any questions? Thank you very much. Jay?

BOB KEHMNA: Thank you.

JAY JACKSON: Good morning, Senator Crisco and Representative O'Connor. My name is Jay W. Jackson. I'm an attorney in Hartford.

I'm here representing the Property Casualty Insurers Association of America, PCI, which is a national property and casualty insurance

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SB 1180
HB 6806
SB 1004
SB 1006

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trade association that represents over 1,000 member companies nationwide.

Here in Connecticut, PCI member companies provide almost 38% of Connecticut's property and casualty insurance coverage. I'm here this morning to speak on House Bill 6689, Raised Senate Bill 1180, Raised House Bill 6806, Proposed Senate Bill 1004, and Proposed Senate Bill 1006.

If I just go slightly over the three minutes, I would appreciate that opportunity to present my position on all five bills.

So if you want, I could come back up for additional testimony on bills, if you thought it necessary.

In the past several months, there has been extensive attention paid to allegations of improper conduct within certain sectors of the insurance industry.

The most serious charges involved bid-rigging, in which a few large brokers and insurers are alleged to have manipulated pricing in terms of contracts.

Such activities are clearly illegal and have no place in a competitive marketplace. Individuals and companies that engage in such activities should be prosecuted to the fullest extent of the law.

PCI members support open, fair, competitive, and reasonably regulated markets that provide

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consumers with the greatest possible choice of products and prices.

Competition based on product quality, price, and customer service is the cornerstone of an efficient insurance market.

We condemn any illegal, deceptive, and anti-competitive practices that distort the competitive market.

We take these charges very seriously. The industry, state law enforcement officials, and state regulators are responding.

Actions taken by the State's Attorney General and State Insurance Departments show that state regulators have effective weapons to combat illegal activities.

Any effort to change that regulatory scheme should be based on specific problems in the marketplace and exactly how current law fails to address that problem.

In the current situation, the problem has clearly arisen in the context of broker relationships.

As we address this issue, we must keep in mind what is most important to consumers, ensuring open and competitive markets.

To ensure open and competitive markets, consumers should understand the relationship of the parties, be aware of all options in the market, and have access to accurate, unbiased and timely information.

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PCI believes that transparency and disclosure are important components of open, fair, competitive, and reasonably regulated markets, and believe that such efforts bear careful consideration.

We oppose overreaching or burdensome proposals that fail to deliver any real value to consumers.

Public policymakers should not attempt to impose blanket prohibitions on incentive compensation programs. The terms and conditions of such agreements are best left to the private parties engaged in the contracts.

PCI believes that regulators should give careful consideration to transparency and disclosure of representation.

In the case of agents, when representation is clear and consumers understand that the insurer compensates the agent, there is no conflict, real or perceived.

In the case of brokers, PCI believes that trust can be enhanced by the buyer's knowledge about the broker's compensation agreements.

With these principles in mind, PCI urges you and your Committee to endorse Raised House Bill 6806 as the best response to the producer compensation issue.

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It is this bill that is most tailored to the problem at hand, disclosure of compensation of brokers from sources other than the insured.

It is also this Bill that provides the transparency needed, so that consumers have all the information required to make informed decisions in the marketplace.

We applaud Insurance Commissioner Cogswell's leadership in developing the NAIC model law on which House Bill 6689 is based.

The NAIC model is a good foundation on which to begin discussions on the appropriate response to the producer compensation issue.

Unfortunately, from PCI's perspective, the NAIC model oversteps the response needed to address problem identified in the producer compensation investigations.

By applying its disclosure standards to captive agents, and arguably independent agents, this model extends the requirements beyond the broker environment in which the lack of disclosure of compensation problems surfaced.

PCI finds all of the other proposals or bills before the Committee as going well beyond compensation disclosure.

They are overreaching and inappropriate responses to the problems identified in the ongoing investigation. I am referring to the other three bills that I've listed.

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SEN. CRISCO: Why don't we just wait, following our procedure, after you come back up, if you don't mind, on the other bills.

JAY JACKSON: I'd be happy to do so.

SEN. CRISCO: Thank you.

JAY JACKSON: If you have any questions, I'd be--

SEN. CRISCO: Any questions?

JAY JACKSON: --as Bob Kehmna has just indicated, we'd be happy to work with you and your Committee in coming up with a fair proposal.

SEN. CRISCO: Thank you. We'll now proceed to House Bill 6689. Dennis Kay? Dennis Kay here?

DENNIS KAY: Yes. Good morning, Senator Crisco, Representative O'Connor, and Members of the Insurance Committee.

I'm Dennis Kay. I represent Connecticut Benefit Brokers, which represents the majority of health insurance agents in the state.

When I'm not here testifying, I have an insurance business in Woodbridge, Connecticut. I am not an attorney or paid lobbyist. I am a health insurance salesperson.

We, Connecticut Benefit Broker, support House Bill 6689. The problems that have arisen, have arisen due to people, insurance people, that act as brokers, not producers.

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SEN. CRISCO: Any other questions? Thank you, Sir.
Jay Jackson?

JAY JACKSON: For the record, I am Jay W. Jackson,
attorney in Hartford, representing Property
Casualty, PCI, on this matter.

As I just testified, we can fully support House
Bill 6689. If you could make the very slight
change to make sure that the addressed problems
in the producer compensation investigation, we
feel that the disclosure standards to captive
agents, and arguably independent agents, would
go beyond what is actually needed.

So if you can clear up that possible
discrepancy, we feel that House Bill 6689 would
be an acceptable result.

SEN. CRISCO: Thank you, Sir. Chairman O'Connor?

REP. O'CONNOR: Thank you, Jay. Thank you Mr.
Chairman. How would you propose doing that, as
far as some of the suggestions that might clear
it up for us?

JAY JACKSON: By using the language that is in
Raised House Bill 6806.

REP. O'CONNOR: Thank you very much.

SEN. CRISCO: Any other questions? I see none.
Thank you. We will now proceed to Raised
Senate Bill 1180. Larry Fowler will be
followed by Dennis Kay.

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LARRY FOWLER: I think the problem would be in speed to market, in regard to new products and things such as that.

When an insurer comes into the State of Connecticut with a new product, one of the things they look at is the expense of the product in bringing it into the State of Connecticut.

I would be fearful that we would lose some of our competitive marketplace here in Connecticut because carriers would not want to bring their products into Connecticut because of all this additional regulation.

REP. O'CONNOR: And you think it would actually prevent people from coming into the market from outside of--

LARRY FOWLER: Yes. And, of course, if there's less competition, pricing would cost the consumers more money for insurance.

SEN. CRISCO: --thank you very much for your testimony. Hang on. Are there any questions? No? None?

Dennis Kay will be followed by Warren and then Robert.

JAY JACKSON: Good morning, again. For the record, Jay W. Jackson, attorney in Hartford, representing PCI.

As I previously testified with relation to Raised House Bill 6806 and House Bill 6689, we

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feel that Raised House Bill 6806 is the correct way to go.

However, House Bill 6689, with the slight modifications that I mentioned earlier, that would also be acceptable.

Raised Senate Bill 1180 goes far beyond what is necessary to cure the problems in the marketplace.

I've already indicated we're completely against any fraudulent conduct, but we feel that Raised House Bill 6806 and House Bill 6689, as modified, would adequately protect the consumer in the state.

SEN. CRISCO: Thank you, Sir. You're very aggressive this morning. We were looking for Dennis Kay.

You don't look like Dennis Kay, but Dennis Kay is a gentleman, so he just let it go.

JAY JACKSON: I'm sorry if I--

DENNIS KAY: Good morning again. I am Dennis Kay. I represent Connecticut Benefit Brokers, which has the majority of agents who sell health insurance in Connecticut. We, the Connecticut Benefit Brokers, oppose Raised Senate Bill 1180 on three points.

The first point is with the idea of imposing a fiduciary relationship between us and the consumer.

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education. We encourage continuing education in our association.

It's to make sure that the ethics portion of that continuing education program is at the highest level, so that agents, on their annual or biannual requirement, do, in fact, learn what's going on in the insurance business.

They understand the new changes in laws, so that they're better able to make sure, ethically, and above all, by giving good advice to the customer at all times.

REP. O'CONNOR: Very good. Thanks. Also, I think it would be helpful to the Committee, what's the difference?

Why shouldn't we have this bill as opposed to, I mean, why should we treat the Marsh Max different than the independent agent?

WARREN RUPPAR: Well, I think we've looked it. The NAIC has struggled with this. The proposal that you've seen, Raised House Bill 6806, addresses the fact that there are different ways to sell insurance.

In the industry, you have a broker community and an agent community. We're looking there as to how people are compensated.

As an agent, we're already highly regulated. We're regulated by the way our rates are filed. We're regulated by the fact that the Insurance Department is aware of the appointments we have with companies.

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As you've heard, the Connecticut marketplace is highly competitive. Consumers benefit from that market as insurers and their producers compete for their business based on price, product and service.

We urge the rejection of Proposed Senate Bill 1004.

SEN. CRISCO: Thank you, Sir. Any questions? Thank you very much. Jay?

JAY JACKSON: Good morning again, Senator Crisco, Representative O'Connor, and Members of the Committee. My name is Jay W. Jackson. I'm an attorney representing PCI.

As I've previously testified, PCI feels that the correct way to proceed in this compensation matter is to adopt Raised House Bill 6806 or House Bill 6689, as modified.

As the previous speakers have indicated, and I would like to associate PCI with their remarks, Proposed Senate Bill 1004 goes far beyond what is necessary to address the problems that have occurred. We would oppose.

SEN. CRISCO: Any questions? Thank you very much. We proceed to Proposed Senate Bill 1006.
Warren?

WARREN RUPPAR: Senator Crisco, Representative O'Connor, and Members of the Insurance and Real Estate Committee, my name is Warren Rupparr.

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SEN. CRISCO: Any other questions? No? Jay Jackson.

JAY JACKSON: Good morning, again, Senator Crisco, Representative O'Connor, and Members of the Committee.

My name is Jay W. Jackson and I'm here representing PCI, which is the Property Casualty Insurance Association of Connecticut in opposition to Proposed Senate Bill 1006.

I previously testified that I believe that Raised House Bill 6806 or House Bill 6689 as modified would take care of any potential problem.

As previous speakers have indicated, Proposed Senate Bill 1006 would go far beyond where there's any perceived problem.

As far as the answer, I think, to the last question that was raised, I believe that in the past the Insurance Department has indicated that they have not received complaints on this issue. Perhaps, they could clarify that issue.

So PCI would be in opposition to Proposed Senate Bill 1006.

SEN. CRISCO: Thank you, Sir. Any other questions? Thank you very much. Proceeding to Proposed Senate Bill 435, Warren Ruppap?

WARREN RUPPAR: Senator Crisco, Representative O'Connor, Members of the Insurance and Real Estate Committee, for the record, I'm Warren

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March 1, 2005

**RE: STATEMENT OF THE PROPERTY CASUALTY INSURERS
ASSOCIATION OF AMERICA (PCI) RELATING TO HOUSE BILL 6806,
HOUSE BILL 6689, SENATE BILL 1180, SENATE BILL 1004 and SENATE
BILL 1006 DEALING WITH INSURANCE PRODUCER COMPENSATION**

Dear Senator Crisco, Representative O'Connor and Members of the Committee:

The Property Casualty Insurers Association of America (PCI) is a national property and casualty insurance trade association that represents over 1000 member companies nationwide. PCI member companies provide almost 38% of Connecticut's property and casualty insurance coverage.

In the past several months, there has been extensive attention paid to allegations of improper conduct within certain sectors of the insurance industry. The most serious charges involved bid-rigging in which a few large brokers and insurers are alleged to have manipulated pricing in terms of contracts. Such activities are clearly illegal and have no place in a competitive marketplace. Individuals and companies that engage in such activities should be prosecuted to the fullest extent of the law.

PCI members support open, fair, competitive and reasonably regulated markets that provide consumers with the greatest possible choice of products and prices. Competition based on product quality, price and customer service is the cornerstone of an efficient insurance market. We condemn any illegal, deceptive, and anti-competitive practices that distort the competitive market.

We take these charges seriously. The industry, state law enforcement officials and state regulators are responding. Actions taken by state Attorney's General and state Insurance Departments show that state regulators have effective weapons to combat illegal activities. Any effort to change that regulatory scheme should be based on specific problems in the marketplace and exactly how current law fails to address that problem. In the current situation, the problem has clearly arisen in the context of broker relationships.

As we address this issue, we must keep in mind what is most important to the consumer-ensuring open and competitive markets. To ensure open and competitive markets, consumers should understand the relationship of the parties, be aware of all options in the market, and have access to accurate, unbiased and timely information.

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PCI believes that transparency and disclosure are important components of open, fair, competitive, and reasonably regulated markets and believe that such efforts bear careful consideration. We oppose overreaching or burdensome proposals that fail to deliver any real value to consumers. Public policymakers should not attempt to impose blanket prohibitions on incentive compensation programs. The terms and conditions of such agreements are best left to the private parties engaged in the contracts.

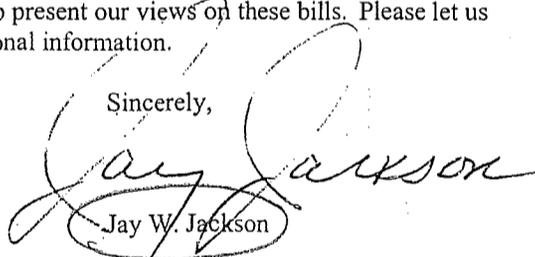
PCI believes that regulators should give careful consideration to transparency and disclosure of representation. In the case of agents, when representation is clear and consumers understand that the insurer compensates the agent, there is no conflict, real or perceived. In the case of brokers, PCI believes that trust can be enhanced by the buyer's knowledge about the broker's compensation agreements.

With these principles in mind, the PCI urges the Committee on Insurance and Real Estate to endorse House Bill 6806 as the best response to the producer compensation issue. It is this bill that is most tailored to the problem at hand; disclosure of compensation of brokers from sources other than the insured. It is also this bill that provides the transparency needed so that consumers have all information required to make informed decisions in the marketplace.

We applaud Insurance Commissioner Cogswell's leadership in developing the NAIC model law on which House Bill 6689 is based. The NAIC model is a good foundation on which to begin discussions on the appropriate response to the producer compensation issue. Unfortunately, from the PCI's perspective, the NAIC model oversteps the response needed to address problems identified in the producer compensation investigations. By applying its disclosure standards to captive agents and arguably independent agents, this model extends the requirements beyond the broker environment in which the lack of disclosure of compensation problems surfaced. The PCI finds all of the other proposals or bills before the committee as going well beyond compensation disclosure. They are overreaching and inappropriate responses to the problems identified in the ongoing investigations.

The PCI appreciates this opportunity to present our views on these bills. Please let us know if you have any questions or need additional information.

Sincerely,



Jay W. Jackson

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STATEMENT RE:

Raised House Bill No. 6806
*"An Act concerning insurance
producer compensation."*

TO:

Insurance & Real Estate Committee

BY:

Professional Insurance Agents
of Connecticut

ON:

March 1, 2005

**PROFESSIONAL
INSURANCE
AGENTS**

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The Professional Insurance Agents of Connecticut, Inc. (PIACT), an association representing more than 500 member independent insurance agents who employ over 3,500 people throughout the state, strongly urges this committee to support Raised House Bill No. 6806. The bill represents an appropriate response, in terms of scope and effect, to the charges leveled against insurance broker Marsh & McLennan and others.

The fallout from the suits against Marsh in the last six months perhaps has given some people the impression that the insurance industry is full of crooks, but that couldn't be farther from the truth. PIACT vehemently condemns bid rigging, market manipulation and other anti-competitive conduct, but the fact that some within the industry have committed illegal acts makes insurance no different from any other industry. While the charges filed against Marsh in Connecticut and elsewhere have been used as ammunition by those who say that the industry needs sweeping reform, the charges themselves demonstrate that any one-size-fits-all legislative response would be inappropriate.

The New York attorney general charged Marsh last October with violations of the state's fraud and antitrust laws. He alleged not only that the broker had misled its clients and betrayed its loyalty to them, but also that the broker used its tremendous influence to reap huge financial benefits. Connecticut's attorney general has more recently charged Marsh with soliciting compensation from an insurer after explicitly agreeing with an insured, in this case the state, that it would not accept compensation from any other source in connection with that placement of insurance.

The charges against Marsh, the largest and most powerful insurance broker in the world, illustrate the significant difference between large, powerful brokers and ordinary main street agents. Marsh's actions were made possible only as a result of its size. The agreements Marsh had with insurers are unique to large commercial brokers and are not the same as customary compensation agreements in the retail insurance market.

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Both lawsuits conveyed the perceived underlying problem that brokers, who are paid by and represent the insured, create conflicts of interest when they also receive compensation from another source, usually an insurer. The National Association of Insurance Commissioners developed a model act late last year that was the work product of a lot of people from a lot of states, all working together to craft a response to the charges against Marsh. The model, which is embodied in Bill No. 6689, recognizes the differences between agents and brokers and advances various disclosure requirements that seek to prevent any such conflict of interest. While Bill No. 6689 is a good start, Bill No. 6806 more accurately reflects the realities of the insurance marketplace and still addresses the areas of abuse that have been uncovered.

There are two main differences between Bill 6806 and Bill 6689. The first is that Bill 6806 would limit the disclosure requirement to the initial placement of insurance only, thereby eliminating the obligation to make an administratively difficult, duplicative disclosure upon renewal. The second difference is that it would eliminate the need for insurance agents to make the more detailed disclosure that will be required of insurance brokers when placing business in surplus lines or a residual market. Agents placing business in those markets generally do so reluctantly and only after determining that coverage is not available elsewhere.

Ultimately, Bill No. 6806 is fair to insurance producers, it mandates greater communication and transparency between producers and insureds, and it acknowledges the validity of the legal compensation agreements that are a vital source of income for many producers.

PIACT also urges this committee to oppose Bill Numbers 1004, 1006, 1180 and 6689. These bills simply go too far. Bill 1180, for example, advances reform to an extent that is unsupported by everything we've learned thus far, and Bill 1004 proposes a ban on all contingency payments – something that even New York Attorney General Spitzer has declined to endorse.

Connecticut currently enjoys an extremely competitive insurance market that is good for consumers and provides a disincentive for producers to place business according to compensation arrangements. Insurance agents provide valuable services for their customers and should not be penalized in response to the illegal activities of a few. Bill No. 6806 is fair, narrowly tailored and effective. For all the above reasons, PIACT strongly urges this committee to support Raised House Bill No. 6806.

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Warren C. Ruppap
Executive Vice President

March 1, 2005

**Testimony of the Independent Insurance Agents of Connecticut
To the Insurance and Real Estate Committee
In Favor of Raised Bill 6806
An Act Concerning Insurance Producer Compensation**

Senator Crisco, Representative O'Connor, and members of the Committee, my name is Spencer Houldin and I am an insurance agent in Washington Depot. My agency, Ericson Insurance Services, second-generation, family-owned small business, run by my brother and me. I also serve as the President of the Independent Insurance Agents of Connecticut and with me today is Warren Ruppap, the Executive Vice President. On behalf of the more than 450 member agencies and their 3500-plus employees throughout the state, I come to you today to speak in favor of Proposed Bill 6806.

IIAC's Reaction to the Marsh Investigation

IIAC condemns in the strongest possible terms bid-rigging, marketplace manipulation, and other anti-competitive conduct, and we are outraged by those who have engaged in illegal practices and tarnished the image of our great industry in the process. We applaud the efforts of state insurance regulators, attorneys general, and other law enforcement officials to swiftly identify and bring to justice anyone proven guilty of these unlawful activities. No system of regulation and oversight will ever prevent all determined bad actors from breaking the laws of the land, but we are extremely pleased state officials are acting aggressively and in a coordinated manner to restore the public's trust in the insurance industry. It is our hope that all individuals who have engaged in this conduct will be punished to the fullest extent of the law.

On a personal level, I am saddened and disappointed that such a small group of my peers might lead some observers to question the commitment of our entire industry to its clients. In my own office, like countless others nationwide, we aspire to offer quality insurance products and professional service, and we seek to do so with honesty and integrity. We place great emphasis on operating with respect and fairness in our business relationships. My agency, however, is not unique in this regard. The vast majority of agents, brokers, and insurance professionals operate consistent with these same principles and morals, and these millions of individuals would not consider for an instant engaging in the type of illicit conduct alleged against a broker in New York.

The Insurance Marketplace

The insurance marketplace is highly competitive and personal and business consumers are well-served as a result. Insurance buyers have an array of options when they buy insurance. Overall,

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there are approximately 3.5 million licensed insurance producers (agents and brokers) in this country authorized by state regulators to sell, solicit, or negotiate insurance. Consumers can choose to purchase insurance from captive agents (who sell the products of only one insurer), from insurers that sell insurance directly to consumers, or from one of the nearly 40,000 independent agencies in the country that have access to the products of multiple companies.

The independent agency system plays an especially important role in the marketplace. This system is unique from the other distribution channels in that independent agencies maintain relationships with multiple insurers and can offer more choice to customers. In fact, on average nationally, they offer policies from eight personal lines and seven commercial lines carriers per agency.

Independent insurance agents and brokers invest substantial effort to identify consumers' wants and needs; understand the complex terms of policies available; assess the products available and present choices to the consumer about coverage, price, service, and financial strength of carriers; and remain available to assist with any questions and changes as needed. Independent agents are not locked into one company's policies or products; since they can access multiple companies, they can help consumers locate coverage that is tailored to fit specific needs and desires.

As an independent agent who sells both business and personal insurance, I witness the effects of this intense competition on the ground floor of the marketplace every day. My current customers are approached and solicited regularly by my competitors in the area, and I also do my best to compete effectively against them to grow more business. Such competition keeps agencies responsive and accountable, and helps ensure that consumers are well-served. If an insurance provider ultimately offers a buyer insurance terms that are below par, prices that are inexplicably higher than others, or service that does not create a value proposition for the purchaser, that buyer will move its business to another agent or channel of distribution.

Regulatory oversight and law enforcement help reduce the possibility of bid-rigging and similar criminal misconduct taking place, but vibrant competition in the marketplace also plays an important role. In nearly every aspect of the insurance marketplace and certainly in Main Street America, the existence of effective competition serves as a check and a balance to deter the type of illegal conduct alleged against a New York broker. In fact, there are only a handful of large multi-national brokers with the economic position and leverage in the marketplace sufficient enough to even potentially convince insurers to submit fake or excessive bids, and strong enforcement can address those few instances if they arise.

Insurance Producers and Their Compensation

When most Americans seek insurance coverage for their homes, automobiles, or businesses, they are working with an insurance agent, and not with a broker. The distinction between agents and brokers is important. Insurance agents typically do not get paid by the insurance purchaser, and it is commonly understood that the agent receives compensation from the insurer with which the business ultimately is placed. The compensation generally takes the form of a commission, which is disclosed by insurers to state insurance regulators as part of insurers' rate filings. Agents have written contracts with the insurance companies they can place business with and

sometimes possess the ability to "bind" coverage for those insurers. These formal contractual relationships are disclosed to state insurance regulators in the form of appointment filings or via the submission to the states of a list of appointed agents. Agents rarely receive compensation directly from consumers, especially in the personal insurance context, and the acceptance of fees by agents is stringently regulated in those jurisdictions where it occurs.

An insurance broker offers advice directly to a client and solely represents that client in the pursuit and purchase of an insurance policy from an insurer. Brokers do this pursuant to buyer-service agreements with their business customers. These insurance experts locate, customize and secure complex insurance packages to address the interests and particular needs of their clients, and almost exclusively interact with professional risk managers and sophisticated commercial enterprises. A broker, because of his or her unique relationship with buyers, is more likely to be compensated directly by the client in the form of a fee. Given the sophistication of buyers who typically utilize a broker, the nature of the fee and the scope of the services provided are the result of negotiation between the buyer and the broker. In some instances, the broker also receives commission from the carrier for placement of a policy.

There are also insurance producers who operate as brokers when the companies they place business for as agents are unable or unwilling to insure an account of a potential purchaser (i.e. there is no market for the risk in the agency); and, again, this typically occurs with commercial purchasers. In such instances, the producer may act as a broker and attempt to locate insurance through a company or other source with which that producer does not have a contractual appointment. The agent's fee may be paid by the insured or, in some instances, by the intermediary or carrier, and the agent does not typically receive what is known as incentive compensation for this type of work.

In addition to the above mentioned compensation that agents and brokers receive, some producers may also qualify for incentive compensation from insurers when certain specified objectives are met. Sales incentive programs are a legal and legitimate tool used in nearly every industry to reward performance, including those that also rely on commission payments. From refrigerators to cars, and homes to business equipment, compensation that rewards a sales force for excellence is sound business practice. These payments reward performance excellence, and performance excellence is compensated in virtually every industry, sales or otherwise, whether measured by the amount or quality of business produced, administrative savings generated, speed or quality of customer service, or other criteria. Unlike some other industries, however, the existence and amount of incentive compensation paid to insurance producers is not based upon a particular insured or particular purchase of insurance but is paid based on the overall relationship between a producer and an insurer.

It is important to note that not all incentive compensation agreements are the same. Placement service agreements (which were at the heart of some of the most egregious market manipulation allegations) and contingent commission agreements are entirely different compensation tools. Unfortunately, the two terms have been used in the media as if they are interchangeable. Placement service agreements (PSAs), which are a relatively new phenomenon, are payments to some brokers for the placement of business with specified carriers based on volume, and are not based on year-end calculations that account for profitability, loss experience or other factors.

These agreements are negotiated individually by each broker and carrier that have them. In contrast, contingent commissions, which have been used for decades, are based on year-end calculations that typically consider profitability, loss experience, and other factors. These agreements are based on form agreements between agents/brokers and carriers.

Put simply, PSAs compensate brokers up front for the placement of business, whereas contingent commissions are "contingent" on a number of factors and paid on the back end. Contingent commissions can be affected by a range of factors outside the control of the agency or brokerage. Because contingent commissions are not calculated until after the close of the carrier's year, an agent or broker does not even know if he or she will qualify for a contingent commission until after the year closes.

Each party involved in the insurance transaction benefits from the use of contingent commissions. They provide an incentive to agents and brokers to engage in effective underwriting and to assist customers with risk management. These fees also facilitate the appropriate matching of certain risks with risks acceptable to particular insurance companies, which can lead to greater insurance availability. In the end, by bringing efficiency to the overall marketplace, all participants (the consumer, the insurance company, and the producer) benefit.

Some have alleged that the receipt of incentive compensation by *brokers* can create a conflict of interest or the appearance of one because the broker is also paid a fee by the client and because of the broker's unique relationship with the client. Although incentive compensation agreements are legal under the laws of every state, IIAC, as I will discuss below, advocates transparency and the meaningful disclosure by brokers of all such agreements.

In one way or another, any difference in compensation available through any channel of distribution could theoretically be identified by some as creating an unlevel playing field, encouraging the sale of policies generating the highest fee, irrespective of the desirability of those policies to the insured. In fact, an insured may have a choice between a carrier offering reduced coverage at a lower premium and a carrier offering broad coverage at a higher premium. The amount of commission on these different policies could be the same if the commission rates paid by the carriers differ, or they could be different if the commission rates paid by the carriers are the same. Either way, the buyer will obtain the policy that best meets its needs, and the rate or amount of commission will not be a factor in that decision.

We would be remiss if we did not respond to certain, unfounded allegations by some special interest groups that have accused independent agents of delaying or discouraging consumers from filing claims in the hope of receiving contingent compensation based on the aggregate loss ratios of their business. These are irresponsible and unsubstantiated claims. Independent insurance agents conduct their business in a highly regulated environment and operate under a strict code of ethics. Additionally, the reality of our highly competitive insurance marketplace dictates that retaining an insured's business by providing excellent service and building a relationship that is based on trust is by far the most effective way to build a successful business. When an insurance consumer contacts an agent concerning a claim, this is the optimal time for the agent to show a customer that the agent brings value to the insurance transaction. Delaying or

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discouraging consumers from filing claims is not only reprehensible because it is unethical and improper, it would not make business sense.

Disclosure by Brokers

IIAC believes the best way to guard against conflicts of interest or the appearance of such conflicts is through transparency and disclosure. Any insurance producer acting as a broker in a given transaction should clearly disclose to a buyer the incentive compensation arrangements that exist with the insurer providing the coverage. Disclosure of such compensation by brokers is especially important given the unique role that brokers play in the marketplace. IIAC believes that transparency is the best way to ensure that the laws are followed and that the public's confidence is earned and maintained. Raised Bill 6806 would establish guidelines for broker disclosure that will protect the consumer and address the abuse or potential abuse that has been seen in the marketplace. With proper disclosure of broker compensation practices, and absent widespread illegal and unethical practices such as bid rigging, IIAC believes that incentive compensation should not be further restricted.

IIAC believes that any broker disclosure requirement should have certain key elements, including:

- The disclosure requirement should be transaction-specific and apply to any producer acting in a particular transaction as an insurance broker and acting under the terms of a buyer service agreement.
- The proposal should require brokers to disclose all incentive compensation arrangements (PSAs or contingent commissions) that are related to the transaction.
- The disclosure should be made in writing.
- The disclosure requirement should be implemented by state officials, who have proven experience and expertise with insurance regulation.

Raised Bill 6806 would accomplish these goals. We urge the committee to support this bill.

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Comment From
Nationwide Mutual Insurance Company

March 1, 2005
Insurance and Real Estate Committee

HB 6806, An Act Concerning Insurance Producer Compensation

Nationwide Mutual Insurance Company supports HB 6806 in principle, and considers it a starting point for work on the issue.

This proposal makes important definitional distinctions between producers in common contact with individual customers and managing general agents, sales managers, and wholesale brokers.

In addition, this proposal draws bright line distinctions as regards the source of compensation and the relevant related duties and responsibilities. It also provides appropriate exemptions where necessary.

All these elements play an important role in meeting the public policy intent of such legislation.

**Written Testimony of the American Insurance Association
Before the Insurance & Real Estate Committee
RE: March 1, 2005 Public Hearing on Producer Compensation Issues**

This written statement is submitted by the American Insurance Association (AIA) on behalf of its more than 435 member insurance companies that write all lines of property-casualty insurance in every U.S. insurance regulatory jurisdiction, including Connecticut. AIA has a strong interest in the issues under discussion today, as many of our member companies distribute their property-casualty insurance products to consumers through insurance brokers. We also have a strong interest in a well-functioning insurance regulatory system that focuses on core regulatory functions such as financial solvency and market conduct.

This has been an exceptionally difficult time for our customers, the regulators, and the industry. It will take time, perseverance and a tough-minded insistence on common sense and balance to work through the public policy response, but we will, and the industry will emerge stronger for it. AIA and our members strongly believe that the type of illegal activity recently alleged with respect to insurance brokerage transactions is unacceptable and brings dishonor on the industry. In this context, it is important to understand that bid rigging and fraudulent activity are already proscribed by antitrust law in every state, including Connecticut.

The state insurance legislative and regulatory communities have begun to mobilize to deal with issues beyond these allegations of illegality, and AIA is committed to working with legislators and regulators in Connecticut and all across the nation to ensure the adoption of appropriate new safeguards. We have demonstrated that commitment through our active and continuing participation in the National Association of Insurance Commissioners (NAIC) process, where we have played an important role in coordinating the property-casualty industry producer trades and facilitating an active and open dialogue with our state regulators aimed at addressing the concerns that have been raised in connection with compensation in insurance brokerage transactions that are at the heart of the ongoing investigation.

In focusing on these transactions, we believe that any new legal standards must take into account the following four principles: a) compensation transparency; b) regulatory clarity; c) jurisdictional consistency; and d) business flexibility. As will be discussed in more detail below, if this Committee decides to move forward on any legislation, we believe these governing principles are most clearly embodied in House Bill 6806.

First, to the extent that current law does not sufficiently ensure transparency in brokerage transactions, we fully support well-considered measures to achieve that transparency. Thus, any new rules should center on transaction-based disclosure of compensation arrangements aimed at the placement process, but without restricting insurers from compensating their producers on the basis of those transparent compensation arrangements. Our free-market economic system has yielded up

insurance marketplace. Consumers receive value from insurance producers who can advise them of the spectrum of insurance products that meet their unique needs. Insurance competition will benefit from more, rather than fewer, options in the marketplace. Both fixed and variable compensation programs for producers should continue to be permitted.

AIA would like to take this opportunity to elaborate on recent developments at the NAIC on this issue. On December 29, 2004, the NAIC Executive Task Force on Broker Activities adopted amendments to the Producer Licensing Model Act by a vote of 31 to 15, with two abstentions. The amendments require specific compensation disclosure for brokerage transactions, as well as representational disclosure for agent transactions. The brokerage provision is triggered when a producer either: (1) receives compensation from the customer; or, (2) represents the customer in the placement of the business. The producer is required to obtain the customer's consent in order to receive compensation from the insurer and to disclose the amount of that compensation or, if that is not known, the method by which compensation will be determined (and a reasonable estimate of the amount, where possible). Under the agent provision (which also may apply to some brokerage situations), the producer must disclose to the customer that the producer will be receiving compensation from the insurer, or that the producer represents the insurer and may provide services to the customer for the insurer.

We believe that the model language approved by the NAIC, while focused on compensation transparency, may cast too broad a net on producers by obligating all producers to provide some type of disclosure rather than focusing the legislative remedy on those brokerage transactions where producer compensation has raised concern. For example, it makes little sense to enact legislation that forces insurance producers that are employed by one insurer to sell that insurer's products to disclose either the fact of their employment or how that employer compensates them. This is simply not an issue that has raised any problems. Yet, the NAIC model language requires such disclosures.

We believe that outstanding issues with the NAIC model language have largely been resolved by House Bill 6806, which incorporates the changes necessary to that model to maintain the appropriate focus on the brokerage transactions that have been the subject of scrutiny. For example, House Bill 6806 removes the second trigger for the brokerage provision (i.e., where the producer "represents the customer" in the placement of insurance), in order to avoid sweeping in producers acting as agents. House Bill 6806 also properly clarifies that the disclosure obligation attaches only to the "initial" placement of business, and is triggered by the receipt of compensation "directly" from a customer -- a term the bill defines as excluding certain statutory and *de minimis* fees. Significantly, House Bill 6806 clarifies that the "safe harbor" provision (subsection (c) of the bill), which exempts a producer from the disclosure requirements of subsection (b) of the bill while imposing another disclosure obligation, does not apply to "a producer whose sole compensation is derived from commissions or other remuneration from the insurer." Conversely, House Bill 6689 also uses the NAIC model language as a foundation, but does not incorporate these essential changes. The only

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Statement

Insurance Association of Connecticut

Insurance and Real Estate Committee

March 1, 2005

HB 6806, An Act Concerning Insurance Producer Compensation
HB 6689, An Act Concerning Disclosure of Insurance Producer Compensation

Recent allegations of illegal activity in certain insurance brokerage transactions are of real concern to the Insurance Association of Connecticut (IAC) and its members. Insurance bid-rigging is unacceptable and prohibited under Connecticut law.

The National Association of Insurance Commissioners (NAIC) established a task force (including Connecticut) to seek regulatory solutions to the issues raised concerning producer compensation. The NAIC has taken a properly deliberative tact in its efforts. The insurance industry has provided, and will continue to provide, input for the regulator's consideration regarding these important issues.

Both HB 6806, An Act Concerning Insurance Producer Compensation, and HB 6689, An Act Concerning Disclosure of Insurance Producer Compensation, are based on the Compensation Disclosure Amendment developed by the NAIC task force. We understand that the task force continues to work on its model amendment.

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IAC believes that both HB 6806 and HB 6689 provide a good starting point for further discussions about the appropriate level and application of compensation disclosure requirements.

If legislation is adopted, it should directly address the questionable and improper practices that have been brought to light, and provide consumers with needed information in order to restore confidence in the insurance distribution system. It should not, however, create unfocused and counterproductive requirements which would only serve to unnecessarily increase transactional costs, confuse the consumer and impair the highly competitive insurance market from which consumers currently benefit greatly.

The basic difference between HB 6806 and HB 6689 is that HB 6806 has added several changes to the NAIC draft to clearly focus the legislation on the brokerage transaction activity which has been called into question.

IAC would welcome the opportunity to work with your Committee, the Insurance Department and all interested parties to find a productive answer to the important public policy questions raised in HB 6806 and HB 6689.



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March 1, 2005

Good morning Senator Crisco, Representative O'Connor, and members of the Insurance and Real Estate Committee. My name is Larry Fowler and I'm a multi line insurance agent from Norwich. I'm speaking today as a Past President of the National Association of Insurance and Financial Advisors here in Connecticut which represents about 850 members. We call our association NAIFA. I'm also honored to have been elected a member of NAIFA's national Board of Trustees. I'm here to support Raised Bill 6806, An Act Concerning Insurance Producer Compensation. NAIFA also supports Raised Bill 6689, An Act Concerning Disclosure of Insurance Producer Compensation that is phrased differently but quite similar.

To begin I want to emphasize NAIFA is very much against the improper activities and compensation of a few "bad actors" such as has been in the news in recent months. This legislation responds to this with enhanced producer compensation disclosure. It requires producers who receive a fee from a client in an advisory capacity and also get commission from an insurance company to discuss it and get written approval from their customer. When an agent does not receive compensation directly from the client they are obligated to tell them, during the application process, they represent the insurance company and are paid a commission to provide various services.

To answer any questions about where the bill language came from I want everyone to know the provisions were worked out through a series of hearing and meetings conducted by the National Association of Insurance Commissioners which included considerable public comment. NAIFA, at the national level, played a very active role in developing these provisions.

I want to give one example of the word-by-word analysis that took place which was provided to me by the NAIFA staff member who was involved. Some Insurance Commissioners had concerns consumers were confused on who the agent represented. The customer or the insurance company. Thus, the term "representing the insurer" was developed and agreed upon to address this concern.

One of the primary reasons we support the NAIC developed provisions is because they will achieve uniformity from state to state. This is critically important in our business today so new products can come to CT. On the other hand:

+ If CT was to use other requirements the compliance burdens on agents and advisors would be enormous. I have a property and casualty business, other agents here in CT specialize in life, health and other insurance products, and there are many licensed agents across the country who do business in CT. All of us would have to spend time on paperwork that provides no value to CT residents. In fact it would be a disservice to them.

+ Without uniformity considerable expense would be added to insurance companies marketing in Connecticut thus causing higher rates for CT residents.

Please support Raised Bill 6806 and the very important specific language agreed to by the NAIC in Raised Bill 6689. Thank you.

A handwritten signature in cursive script that reads "Larry Fowler".

Larry Fowler, CLU, LUTCF
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Statement

National Association of Mutual Insurance Companies

Insurance and Real Estate Committee

March 1, 2005

Submitted by Tami Stanton
State Affairs Manager

HB 6806, An Act Concerning Insurance Producer Compensation
HB 6689, An Act Concerning Disclosure of Insurance Producer Compensation

Founded in 1895, NAMIC is a full-service national trade association with more than 1,400 member companies that underwrite 43 percent (\$196 billion) of the property/casualty insurance premium in the United States. NAMIC members account for 44 percent of the homeowners market, 38 percent of the automobile market, 39 percent of the workers' compensation market, and 31 percent of the commercial property and liability market. In the state of Connecticut, NAMIC members write 27 percent of the total property and casualty market.

For some time now, NAMIC has been working with the National Association of Insurance Commissioners (NAIC) on its approach to the broker compensation investigations and lawsuits initiated by New York Attorney General Elliot Spitzer. The issue centers on what measures policymakers should implement to detect and prevent conflict of interest related to compensation and insurance brokers. The

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NAIC's approach has been to amend their Producer Licensing Model Act (PLMA) to require producers to disclose varying levels of information about their compensation.

The NAIC current model, which both HB 6806 and HB 6689 basically mirror, is not supported by NAMIC's members. The NAIC model's definition of "producer" is too broad and fails to distinguish between agents and brokers and could sweep independent and captive agents into the process. The draft model also requires an insured's written acknowledgement prior to the sale.

The focus of any disclosure proposal should be on notifying the consumer of the potential conflict of interest that exists when the broker receives two fees, one from the consumer and another commission/compensation from the insurance company. In contrast, a duty to disclose the specific details of the method of calculation and the exact amount of compensation to be paid to a broker or agent by an insurance company is unnecessary and irrelevant to the cost-benefit analysis conducted by the consumer in making a decision about which insurance products to purchase. This objective can be accomplished without creating an onerous compensation disclosure requirement that is impractical, unworkable and unnecessary.

NAMIC appreciates the opportunity to voice its concerns regarding HB 6806 and HB 6689 and is willing to work further on the issue specifically related to the state of Connecticut. At the same time, NAMIC continues dialog with the NAIC on the development of a reasonable and effective regulatory model addressing the disclosure of insurance broker fees.